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Bill 76

30
1985

An Act to amend the
Public Service Superannuation Act

Bill 76

This Bill amends the Public Service Superannuation Act to provide for the payment of a lump sum amount to members of the Legislative Assembly by the Minister of Government Services upon their retirement.

**An Act to amend the
Public Service Superannuation Act**

This Bill amends the Public Service Superannuation Act to provide for the payment of a lump sum amount to members of the Legislative Assembly by the Minister of Government Services upon their retirement.

This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

The Hon. E. Caplan
Minister of Government Services



1st Reading December 13th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The proposed section 26b of the Act will bring the staff of members of the Legislative Assembly and the staff of each caucus within the ambit of the Act.

Bill 76**1985**

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Service Superannuation Act, being chapter 419 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:*

26b. This Act applies to every person employed in the service of a member of the Legislative Assembly or in the service of a caucus of a party and who is paid out of money appropriated therefor by the Legislature.

Application to staff of members of Assembly and to caucus staff

2. *This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.*

Commencement

3. *The short title of this Act is the **Public Service Superannuation Amendment Act, 1985.***

Short title

First Reading December 13, 1985
Second Reading January 23, 1986
Committee of the Whole
Reported January 23, 1986
An Act to amend the Public Service Superannuation Act, 1985
Enacted by the Legislative Assembly of the Province of Ontario
January 23, 1986

An Act to amend the
Public Service Superannuation Act

Bill 76

An Act to amend the Public Service Superannuation Act

The Hon. E. Caplan

Minister of Government Services



1st Reading December 13th, 1985

2nd Reading January 21st, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The proposed section 26b of the Act will bring the staff of members of the Legislative Assembly and the staff of each caucus within the ambit of the Act.

Bill 76**1986**

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

26b. This Act applies to every person employed in the service of a member of the Legislative Assembly or in the service of a caucus of a party and who is paid out of money appropriated therefor by the Legislature.

Application
to staff of
members of
Assembly
and to
caucus staff

2. The Board of Internal Economy of the Legislative Assembly, the Minister and the Ontario Municipal Employees Retirement Board may by agreement,

Transition

(a) transfer all funds and other assets of the Caucus Employees Retirement Plan and the Caucus Retirement Superannuation Adjustment Fund Account to the Public Service Superannuation Fund and the Public Service Superannuation Adjustment Fund, respectively; and

(b) transfer all credits of contributors and retired contributors in the Caucus Employees Retirement Plan and the Caucus Employees Superannuation Adjustment Fund Account to the Public Service Superannuation Fund and the Public Service Superannuation Adjustment Fund, respectively.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

4. The short title of this Act is the *Public Service Superannuation Amendment Act, 1986*.

Short title

Bill 76

1ST SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 76*(Chapter 12
Statutes of Ontario, 1986)***An Act to amend the
Public Service Superannuation Act**

The Hon. E. Caplan
Minister of Government Services

| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 13th, 1985 |
| <i>2nd Reading</i> | January 21st, 1986 |
| <i>3rd Reading</i> | February 12th, 1986 |
| <i>Royal Assent</i> | February 12th, 1986 |

Bill 76**1986**

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

26b. This Act applies to every person employed in the service of a member of the Legislative Assembly or in the service of a caucus of a party and who is paid out of money appropriated therefor by the Legislature.

Application
to staff of
members of
Assembly
and to
caucus staff

2. The Board of Internal Economy of the Legislative Assembly, the Minister and the Ontario Municipal Employees Retirement Board may by agreement,

Transition

(a) transfer all funds and other assets of the Caucus Employees Retirement Plan and the Caucus Retirement Superannuation Adjustment Fund Account to the Public Service Superannuation Fund and the Public Service Superannuation Adjustment Fund, respectively; and

(b) transfer all credits of contributors and retired contributors in the Caucus Employees Retirement Plan and the Caucus Employees Superannuation Adjustment Fund Account to the Public Service Superannuation Fund and the Public Service Superannuation Adjustment Fund, respectively.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

4. The short title of this Act is the *Public Service Superannuation Amendment Act, 1986*.

Short title

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 77

An Act to amend certain Acts respecting Residential Tenancies

The Hon. A. Curling
Minister of Housing



1st Reading December 16th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The re-enactment of section 125 of the Act lowers from 6 per cent to 4 per cent, effective on the 1st day of August, 1985, the amount by which a landlord may increase the rent charged for a rental unit without application to the Residential Tenancy Commission.

SECTION 2. The sections that are added to the Act set out the consequences, and the procedures to be followed, where a landlord has increased the rent charged for a rental unit to take effect on or after the 1st day of August, 1985, by more than 4 per cent and where the increase is not authorized by an order of the Residential Tenancy Commission.

SECTION 3.—Subsection 1. The repeal of clause 120 (b) of the Act removes the power to, by regulation, exempt from rent review rental units that rent for \$750 per month or more. The repeal of clause 134 (1) (e) removes the exemption from rent review that is consequent on such a regulation.

Subsection 2. Regulation 900 of the Revised Regulations of Ontario, 1980 in fact provided that rental units, the monthly rental for which is \$750 or more are exempt from rent review. That regulation was revoked on October 30th, 1984. This subsection is intended to make it clear that rental units not otherwise exempt from rent review are, as of the 1st day of August, 1985, subject to rent review irrespective of the amount of rent charged.

SECTION 4. This section extends the operation of the *Residential Complexes Financing Costs Restraint Act, 1982* for a period of one year, that is, from December 31st, 1985 to December 31st, 1986.

**An Act to amend certain Acts
respecting Residential Tenancies**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 125 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

125. Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit to take effect on or after the 1st day of August, 1985, by more than 4 per cent of the last rent that was charged for an equivalent rental period.

Maximum permitted rent increase without application

2. The said Act is amended by adding thereto the following sections:

125a. A notice of rent increase to increase the rent charged for a rental unit by more than 4 per cent of the last rent that was charged for an equivalent rental period given before this section comes into force to take effect on or after the 1st day of August, 1985 shall be deemed to be for an increase of 4 per cent except that, where an order of the Commission on an application under section 126 permits an increase other than 4 per cent, the notice of rent increase shall be deemed to be for the increase permitted by the order.

Notice deemed for 4 per cent

125b. A landlord who has increased the rent charged for a rental unit by more than 4 per cent effective on or after the 1st day of August, 1985, where that increase was not permitted by an order of the Commission, shall, on or before the 14th day of February, 1986,

Landlord to repay excess rent or bring application under s. 126

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of a 4 per cent increase; or

- Applications
in respect of
previously
exempt units
- (b) apply to the Commission under section 126 (whole building review) even though the time for making such an application set out in subsection 126 (3) has expired.

125c.—(1) Where,

- (a) before the day this section comes into force the Commission has made an order setting the maximum rents that may be charged for rental units in a residential complex pursuant to an application under section 126; and
- (b) in respect of one or more rental units in the residential complex, the order did not set the maximum rents that may be charged for those rental units because the monthly rental was \$750 or more before the effective date of the first rent increase permitted by the order,

the landlord of the residential complex may apply to the Commission under section 126 only in respect of all the units described in clause (b), the rent for which was increased by more than 4 per cent on or after the 1st day of August, 1985 and before twelve months elapsed from the effective date of the first rent increase permitted by the order mentioned in clause (a) and the Commission has jurisdiction to consider the application and to set the maximum rents that may be charged notwithstanding that not all of the rental units in the residential complex are included in the application.

Order of
Commission

(2) In making an order setting the maximum rents that may be charged for the rental units included in an application made under subsection (1), the Commission shall apply the total rent increase percentage previously determined by the Commission and applied by it in setting the maximum rents in the order described in clause (1) (a).

Amended
application
under s. 126

125d. Where a landlord,

- (a) has made an application under section 126 before the day this section comes into force and the effective date of the first rent increase applied for is after the 1st day of August, 1985; and
- (b) has increased the rent charged for a rental unit in the residential complex that is the subject of the application to take effect on or after the 1st day of August, 1985, and before the effective date mentioned in clause (a) by more than 4 per cent of the

last rent charged for the rental unit and the rent increase was not permitted by an order of the Commission,

the Commission shall at any time before an order is made in respect of the application, at the request of the landlord, amend the application so that the effective date of the first rent increase applied for is the date of the earliest rent increase mentioned in clause (b).

125e. In an application under section 126, as provided for in clause 125b (b) or in an application amended under section 125d, the Commission, after apportioning the total rent increase justified in accordance with section 5 of the *Residential Complexes Financing Costs Restraint Act, 1982*, shall, in making an order under section 131, set the maximum rent that may be charged for each rental unit that is under review,

Maximum
rent increase

1982, c. 59

- (a) in respect of a rental unit that, prior to the 1st day of August, 1985, was subject to Part XI, at an amount that does not exceed by more than 6 per cent the last rent that was charged for the rental unit; and
- (b) in respect of a rental unit that, prior to the 1st day of August, 1985, was not subject to Part XI, at an amount that does not exceed the increased rent specified by the landlord in a notice of rent increase mentioned in section 125a.

125f. Where a landlord fails to comply with clause 125b (a) or (b) on or before the 14th day of February, 1986, the tenant may,

Recovery
by tenant
of excess
rent paid

- (a) deduct the amount of the rent paid by the tenant that is in excess of a 4 per cent increase from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Commission under subsection 129 (2).

3.—(1) Clauses 120 (b) and 134 (1) (e) of the said Act are repealed.

(2) Notwithstanding the previous operation of clause 134 (1) (e) of the *Residential Tenancies Act* as it read immediately before its repeal by subsection (1) of this section or of Regulation 900 of the *Revised Regulations of Ontario, 1980*, made thereunder, Part XI of the *Residential Tenancies Act*

Application

applies to a rental unit not otherwise exempt from that Part, irrespective of the monthly rental charged for the rental unit.

4.—(1) Subsection 7 (1) of the *Residential Complexes Financing Costs Restraint Act, 1982*, being chapter 59, as re-enacted by the Statutes of Ontario, 1984, chapter 65, section 1, is repealed and the following substituted therefor:

Repeal

(1) This Act is repealed on the 31st day of December, 1986.

(2) Subsection 7 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 69, section 1 and 1984, chapter 65, section 1, is further amended by striking out “1985” in the amendment of 1984 and inserting in lieu thereof “1986”.

Commencement

5.—(1) This Act, except sections 1 and 3, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 3 shall be deemed to have come into force on the 1st day of August, 1985.

Short title

6. The short title of this Act is the *Residential Tenancies Amendment Act, 1985*.

Bill 77

(*Chapter 15
Statutes of Ontario, 1985*)

An Act to amend certain Acts respecting Residential Tenancies

The Hon. A. Curling
Minister of Housing



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 16th, 1985 |
| <i>2nd Reading</i> | December 19th, 1985 |
| <i>3rd Reading</i> | December 20th, 1985 |
| <i>Royal Assent</i> | December 20th, 1985 |

Bill 77**1985**

**An Act to amend certain Acts
respecting Residential Tenancies**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 125 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

125. Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit to take effect on or after the 1st day of August, 1985, by more than 4 per cent of the last rent that was charged for an equivalent rental period.

Maximum
permitted
rent increase
without
application

2. The said Act is amended by adding thereto the following sections:

125a. A notice of rent increase to increase the rent charged for a rental unit by more than 4 per cent of the last rent that was charged for an equivalent rental period given before this section comes into force to take effect on or after the 1st day of August, 1985 shall be deemed to be for an increase of 4 per cent except that, where an order of the Commission on an application under section 126 permits an increase other than 4 per cent, the notice of rent increase shall be deemed to be for the increase permitted by the order.

Notice
deemed
for 4 per
cent

125b. A landlord who has increased the rent charged for a rental unit by more than 4 per cent effective on or after the 1st day of August, 1985, where that increase was not permitted by an order of the Commission, shall, on or before the 14th day of February, 1986,

Landlord to
repay excess
rent or bring
application
under s. 126

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of a 4 per cent increase; or

- Applications in respect of previously exempt units**
- (b) apply to the Commission under section 126 (whole building review) even though the time for making such an application set out in subsection 126 (3) has expired.

125c.—(1) Where,

- (a) before the day this section comes into force the Commission has made an order setting the maximum rents that may be charged for rental units in a residential complex pursuant to an application under section 126; and
- (b) in respect of one or more rental units in the residential complex, the order did not set the maximum rents that may be charged for those rental units because the monthly rental was \$750 or more before the effective date of the first rent increase permitted by the order,

the landlord of the residential complex may apply to the Commission under section 126 only in respect of all the units described in clause (b), the rent for which was increased by more than 4 per cent on or after the 1st day of August, 1985 and before twelve months elapsed from the effective date of the first rent increase permitted by the order mentioned in clause (a) and the Commission has jurisdiction to consider the application and to set the maximum rents that may be charged notwithstanding that not all of the rental units in the residential complex are included in the application.

Order of Commission

(2) In making an order setting the maximum rents that may be charged for the rental units included in an application made under subsection (1), the Commission shall apply the total rent increase percentage previously determined by the Commission and applied by it in setting the maximum rents in the order described in clause (1) (a).

Amended application under s. 126

125d. Where a landlord,

- (a) has made an application under section 126 before the day this section comes into force and the effective date of the first rent increase applied for is after the 1st day of August, 1985; and
- (b) has increased the rent charged for a rental unit in the residential complex that is the subject of the application to take effect on or after the 1st day of August, 1985, and before the effective date mentioned in clause (a) by more than 4 per cent of the

last rent charged for the rental unit and the rent increase was not permitted by an order of the Commission,

the Commission shall at any time before an order is made in respect of the application, at the request of the landlord, amend the application so that the effective date of the first rent increase applied for is the date of the earliest rent increase mentioned in clause (b).

125e. In an application under section 126, as provided for in clause 125b (b) or in an application amended under section 125d, the Commission, after apportioning the total rent increase justified in accordance with section 5 of the *Residential Complexes Financing Costs Restraint Act, 1982*, shall, in making an order under section 131, set the maximum rent that may be charged for each rental unit that is under review,

Maximum
rent increase

1982, c. 59

- (a) in respect of a rental unit that, prior to the 1st day of August, 1985, was subject to Part XI, at an amount that does not exceed by more than 6 per cent the last rent that was charged for the rental unit; and
- (b) in respect of a rental unit that, prior to the 1st day of August, 1985, was not subject to Part XI, at an amount that does not exceed the increased rent specified by the landlord in a notice of rent increase mentioned in section 125a.

125f. Where a landlord fails to comply with clause 125b (a) or (b) on or before the 14th day of February, 1986, the tenant may,

Recovery
by tenant
of excess
rent paid

- (a) deduct the amount of the rent paid by the tenant that is in excess of a 4 per cent increase from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Commission under subsection 129 (2).

3.—(1) Clauses 120 (b) and 134 (1) (e) of the said Act are repealed.

(2) Notwithstanding the previous operation of clause 134 (1) (e) of the *Residential Tenancies Act* as it read immediately before its repeal by subsection (1) of this section or of Regulation 900 of Revised Regulations of Ontario, 1980, made thereunder, Part XI of the *Residential Tenancies Act* applies to

Application

a rental unit not otherwise exempt from that Part, irrespective of the monthly rental charged for the rental unit.

4.—(1) Subsection 7 (1) of the *Residential Complexes Financing Costs Restraint Act, 1982*, being chapter 59, as re-enacted by the Statutes of Ontario, 1984, chapter 65, section 1, is repealed and the following substituted therefor:

Repeal

(1) This Act is repealed on the 31st day of December, 1986.

(2) Subsection 7 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 69, section 1 and 1984, chapter 65, section 1, is further amended by striking out “1985” in the amendment of 1984 and inserting in lieu thereof “1986”.

Commencement

5.—(1) This Act, except sections 1 and 3, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 3 shall be deemed to have come into force on the 1st day of August, 1985.

Short title

6. The short title of this Act is the *Residential Tenancies Amendment Act, 1985*.

Bill 78

An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes

The Hon. A. Curling
Minister of Housing



1st Reading December 16th, 1985
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill replaces the provisions of the *Residential Tenancies Act* that govern rent review matters with a new Act, to be called the *Residential Rent Regulation Act, 1985*.

Among the principal features of the new Act proposed by the Bill are the following:

1. The percentage amount by which a landlord may increase the rent charged for a rental unit without applying for an order permitting the landlord to do so is set at 4 per cent in respect of rent increases that take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987; in respect of rent increases that take effect on or after the 1st day of January, 1987, the percentage will be calculated annually in accordance with a prescribed schedule.
2. Three categories of rental units that are exempt from rent review under the *Residential Tenancies Act* are, under the Bill, made subject to rent regulation effective the 1st day of August, 1985. These are,
 - i. a rental unit situate in a building, no part of which was occupied as a rental unit before the 1st day of January, 1976,
 - ii. a rental unit that is a mobile home or mobile home site that was not occupied as a rental unit before the 1st day of January, 1976, and
 - iii. a rental unit the monthly rental for which is in excess of \$750 (regardless of when that level of rent was reached).
3. A landlord who desires to increase the rent charged for a rental unit by more than the relevant percentage is required to apply, in the first instance, to the Minister of Housing for an order permitting the landlord to do so. The authority to consider such an application and make an order may be delegated by the Minister to named officials of the Ministry of Housing. Procedures are set out in the Bill to be followed where such an application is made.
4. A board to be known as the Rent Review Hearings Board is established to which a landlord or a tenant may appeal from an order made on the initial application. That appeal will be conducted as a hearing *de novo*. A further appeal lies on a question of law from an order of that Board to the Divisional Court.
5. Provision is made for the establishment of a rent registry that will initially compile information on the rent charged and other relevant matters in respect of residential complexes containing more than six rental units; at a future date to be prescribed, the registry will be expanded to include such rental information in respect of residential complexes containing six or fewer rental units. Landlords will be required to file the actual rent being charged for a rental unit on the 1st day of July, 1985, or if a rental unit is not rented on that date, the rent charged when it is first rented. Tenants may dispute within a specified time period the amount of the actual rent as recorded in the rent registry; otherwise the rent recorded is deemed to be the lawful rent.
6. Where an order has been made under the *Residential Tenancies Act*, or is made under the new Act proposed by the Bill, for a rent increase because of an increase in financing costs, tenants may, at the time those increased costs are no longer borne by the landlord, apply for a reduction in the rents being charged.
7. The interim restraint on the pass-through of increased financing costs resulting from the purchase of a residential complex, contained in the *Residential Complexes Financing Costs Restraint Act, 1982*, is placed on a permanent footing. The suspension of the 2 per cent relief of hardship provision contained in that

Act is, however, lifted. Restored also is the provision permitting equalization of rents for similar rental units, under certain conditions, which had been suspended under the operation of that Act.

8. The Lieutenant Governor in Council is empowered to prescribe by regulation procedural rules and administrative policies and these will be binding on the Minister or the Minister's delegates and on the Board in the interpretation and application of the Act; additional extensive regulation-making powers are conferred on the Lieutenant Governor in Council to prescribe in detail the manner in which applications under the Act will be dealt with.
9. The Bill contains an expanded offences provision; it will, for example, be an offence for a landlord to charge a rent that is in excess of that permitted under the Act.
10. A landlord's increased operating costs will be allowed at a fixed percentage on an application for permission to charge a higher rent.
11. Provisions are included in the Bill that set out the consequences, and the procedures to be followed, where a landlord has increased the rent charged for a previously exempt rental unit to take effect on or after the 1st day of August, 1985, by more than 4 per cent.

Bill 78**1985**

**An Act to provide for the
Regulation of Rents charged for
Rental Units in Residential Complexes**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Rent Review Hearings Board established under this Act;

“landlord” includes the owner, or other person permitting occupancy of a rental unit, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying the rental unit, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

“mail” means first-class, registered or certified mail;

“maximum rent” means the lawful maximum rent which could be charged for a rental unit had all statutory increases or other increases permitted under this Act been taken;

“Minister” means the Minister of Housing or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

“Ministry” means the ministry of the Minister;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

“mobile home park” means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord, where two or more occupied mobile homes are located for a period of sixty days or more;

R.S.O. 1980,
c. 91

“non-profit co-operative housing corporation” means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor thereof or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

- (a) its activities shall be carried on without the purpose of gain for its members,
- (b) on dissolution, its property after payment of its debts and liabilities shall be distributed to non-profit or charitable organizations,
- (c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof,
- (d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members, or a committee thereof, and that the member whose occupancy rights are terminated has a right to appear and make representations prior to such vote;

“prescribed” means prescribed by the regulations made under this Act;

“rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord’s agent for the right to occupy a rental unit and for any services and facilities, privilege, accommodation or thing that the landlord provides for the tenant in respect of his or her occupancy of the rental unit, whether or not a separate charge is made for such services and facilities, privilege, accommodation or thing but does not include,

- (a) any amount required by the *Retail Sales Tax Act* to be collected from a tenant by a landlord, or
- (b) any amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home owned by a tenant;

R.S.O. 1980,
c. 454

“rental unit” means any living accommodation or site for a mobile home used or intended for use as rented residential premises;

“residential complex” means a building, related group of buildings or mobile home park, in which one or more rental units are located, including a rental unit contained in a complex registered under the *Condominium Act* or a related group of units in a complex registered under that Act, and includes all common areas, services and facilities available for the use of residents of the building, buildings or park;

R.S.O. 1980,
c. 84

“services and facilities” includes,

- (a) furniture, appliances and furnishings,
- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning or maintenance services,
- (h) storage facilities,
- (i) intercom systems,
- (j) cablevision facilities,
- (k) heating facilities or services,
- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services or facilities;

“statutory increase” means the amount by which the rent charged for a rental unit may be increased without application to the Minister;

“subsidized public housing” means a rental unit rented to persons or families of low or modest income who pay an amount geared-to-income for that unit by reason of public funding provided by the Government of Canada, Ontario or a municipality, including a regional, district or metropolitan municipality, or by any agency thereof, pursuant to the *National Housing Act (Canada)*, the *Housing Development Act* or the *Ontario Housing Corporation Act*;

R.S.C. 1970,
c. N-10
R.S.O. 1980,
cc. 209, 339

“tenancy agreement” means an agreement between a landlord and a tenant for occupancy of a rental unit, whether written, oral or implied;

“tenant” means a person who pays rent in return for the right to occupy a rental unit and his or her heirs, assigns and personal representatives and a sub-tenant is a tenant of the person giving the sub-tenant the right to occupy the rental unit.

Application
of Act

2.—(1) This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

Conflict
1981, c. 53

(2) Where a provision of this Act conflicts with a provision of any other Act, except the *Human Rights Code, 1981*, the provision of this Act applies.

Act binds
Crown

3. This Act is binding on the Crown.

Exemptions
from Act

4.—(1) This Act does not apply to,

- (a) transient living accommodation provided in a hotel, motel, inn, tourist home or hostel;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period;
- (c) living accommodation, whether situate on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;

- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) living accommodation established to temporarily shelter persons in need;
- (g) living accommodation provided in connection with the purposes for which the institution is established by a hospital, a nursing home or a home for the aged;
- (h) living accommodation provided by an educational institution to its students or staff where,
 - (i) the living accommodation is provided primarily to persons under the age of majority, or
 - (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households;

- (i) living accommodation situate in a building or project used in whole or in part for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by him or her of services related to, a non-residential business or enterprise carried on in the building or project;
- (j) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the person occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed to be a rental unit.

(2) This Act, except for Part I, does not apply to,

Idem

- (a) a rental unit situate in a residential complex owned, operated or administered by or on behalf of the

Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof except that where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply;

R.S.C. 1970,
c. N-10

- (b) a rental unit situate in a non-profit housing project, rents for which are subject to the approval of the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, or situate in a non-profit co-operative housing project as defined in the *National Housing Act (Canada)*;
- (c) a rental unit not otherwise exempt from this Act that is provided by an educational institution to a student or member of its staff except that, where there is a council or association representing the residents, the exemption does not apply in respect of a rent increase unless there has been consultation with the council or association respecting the increase;
- (d) a rental unit situate in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

Subsidized
public
housing

- (3) This Act does not apply to an increase in the amount geared-to-income paid by a tenant in subsidized public housing who is occupying a rental unit, other than a unit referred to in clause (2) (a) or (b), but this Act does apply to the unit itself.

PART I

NOTICE OF RENT INCREASES

Notice of
rent increase

5.—(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant a notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase, expressed both in dollars and as a percentage of the current rent, intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

(2) An increase in rent by the landlord where the landlord has not given the notice required by subsection (1) is void.

Increase void where no notice

(3) Subsections (1) and (2) do not apply to a rent increase for a rental unit where the rent increase is intended to take effect when a new tenant first occupies the rental unit under a new tenancy agreement.

Notice unnecessary for new tenant

(4) A notice of rent increase given in compliance with this section and section 17 shall be deemed to be sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

Notice of rent increase deemed in compliance with R.S.O. 1980, c. 232, ss. 123, 129 (1)

6.—(1) Where a tenant who has been given a notice of an intended rent increase under section 5 fails to give the landlord proper notice of termination, the tenant shall be deemed to have accepted the amount of rent increase that does not exceed the amount allowed under this Act.

Where tenant fails to give notice of termination

(2) The deemed acceptance by a tenant of an increase in rent in the case mentioned in subsection (1) does not constitute a waiver of the tenant's rights to take whatever proceedings are available under this Act for the regulation of rent increases.

Deemed acceptance not to constitute waiver of tenant's rights

7. Where a notice of an intended rent increase has been given under section 5, a rent increase up to the lesser of,

Rent chargeable until order takes effect

- (a) the intended rent increase specified in the notice; and
- (b) the limit imposed by subsection 50 (1),

may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect.

PART II

GENERAL

8. The Minister is responsible for the administration of this Act.

Administration

9. The Minister may by order establish regions in Ontario for the purposes of this Act.

Minister may establish regions

Proceedings
in region

10. An application to the Minister and an appeal to the Board may only be made, and all proceedings under this Act shall be held, in the region in which the residential complex in question is situate unless the Minister or the Board, as the case may be, otherwise directs.

Duties of
Minister

11. The Minister shall,

- (a) provide information and advice to the public on all residential tenancy matters including referral where appropriate to social services and public housing agencies;
- (b) investigate cases of alleged failure to comply with an order made under this Act or to comply otherwise with the provisions of this Act and, where the circumstances warrant, commence or cause to be commenced proceedings in respect of the offence; and
- (c) take an active role in ensuring that landlords and tenants are aware of the benefits and obligations established by this Act.

Delegation

12. The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation.

Exclusive
jurisdiction
of Minister
and Board

13.—(1) Subject to subsections (4) and (5), the Minister and, on appeal, the Board, have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Act and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Minister and the Board.

Procedural
rules and
adminis-
trative
policies

(2) The Minister and the Board, in the interpretation and administration of this Act, shall observe such procedural rules and administrative policies as are prescribed.

Board may
determine
application
of Act, etc.

(3) The Board, on the application of a landlord or a tenant, may make a binding determination as to,

- (a) whether this Act applies to a particular living accommodation;
- (b) the rental units, common areas, services and facilities that are included in a particular residential complex; and

(c) any other matter of concern that may arise respecting the application of this Act.

(4) In respect of any proceedings under this Act, the Minister shall not accept an application and the Board shall not accept an appeal where the amount claimed by any party to the application is in excess of \$3,000 and neither the Minister nor the Board shall make an order for the payment of money in excess of \$3,000.

(5) Where, under this Act, a person claims a sum of money in excess of \$3,000, he or she may institute proceedings therefor in any court of competent jurisdiction.

Where amount claimed by party over \$3,000

Court jurisdiction

PART III

PROCEDURE

14. A person may make an application to the Minister as a landlord or as a tenant, provided the person was a landlord or a tenant at the time the conduct giving rise to the application occurred.

Who may make application

15.—(1) An application to the Minister shall be made in the prescribed form and shall be signed by the person making the application or his or her agent.

Form of application

(2) Where an application is brought against an occupant and the name of the occupant is not known to the person bringing the application, the name of the occupant may be shown in the application as "occupant" and any proceedings may be taken against, and all orders shall be binding on, the person occupying the rental unit as if the occupant had been correctly named.

Where name of occupant not known

(3) Where an application is brought against a landlord and the name of the landlord is not known to the person bringing the application, the name of the landlord may be shown in the application as "landlord" and any proceedings may be taken against, and all orders shall be binding on, the landlord as if the landlord had been correctly named.

Where name of landlord not known

16.—(1) Where a landlord makes an application to the Minister, the landlord shall within ten days give a copy of the application to any tenant, sub-tenant or occupant who, at the time the application is made, is directly affected by the issues raised in the application.

Landlord must give copy of application to tenant, etc.

Tenant must give copy of application to landlord

(2) Where a tenant makes an application to the Minister, the tenant shall within ten days give a copy of the application to the landlord.

Where new landlord or new tenant

(3) Where, before an order is made in respect of any application to the Minister, a landlord or tenant is succeeded by a new landlord or tenant, the applicant shall within ten days of becoming aware of such change give the new landlord or tenant a copy of the application.

Minister may give written directions

(4) The Minister shall, on request, give written directions concerning the giving of copies of an application, and compliance with the directions of the Minister shall be deemed to be compliance with this section.

Extension of time for application, etc.

(5) The Minister may, whether or not the time for making an application to the Minister or giving the application to any party or filing any documents has expired and where the Minister is of the opinion that it would not be unfair to do so, extend the time for the making of the application to the Minister or giving the application to any party or the filing of any documents.

Application of subss. (1-5) to appeals

(6) The provisions of subsections (1) to (5) apply with necessary modifications to the filing of notices of appeal with the Board under Part VII of this Act.

Method of giving notice, etc.

17.—(1) Where this Act permits or requires a notice or document to be given to a person, the notice or document is sufficiently given by,

- (a) handing it to the person, or,
 - (i) where the person is a landlord, to any employee of the landlord exercising authority in respect of the residential complex, or
 - (ii) where the person is a tenant, sub-tenant or occupant, to an apparently adult person in the rental unit;
- (b) leaving it in the mail box where mail is ordinarily delivered to the person;
- (c) where there is no mail box, leaving it at the place where mail is ordinarily delivered to the person; or
- (d) sending it by mail to the address where the person resides or carries on business.

(2) Where a notice or document is given by mail, it shall be deemed to have been given on the fifth day after mailing.

Where notice given by mail

(3) Despite the other provisions of this section, the Minister or the Board, as the case may be, may in writing direct a notice or document to be given in any other manner.

Minister or Board may give written directions

(4) Despite the other provisions of this section, a notice or document shall be deemed to have been validly given where it is proven that the contents of the notice or document actually came to the attention of the person for whom the notice or document was intended within the times for the giving of notice or documents under this Act.

Actual notice is sufficient

(5) The method for the computation of time set out in the Rules of Civil Procedure apply to the computation of time under this Act.

Computation of time

18. Subject to subsection 65 (5), the parties to an application or an appeal are the persons making the application or appeal, any person entitled to receive a copy of the application or a notice of appeal and any person added as a party by the Minister or the Board.

Parties to application or appeal

19. Where, in any proceedings under this Act, the Minister or the Board is of the opinion that,

Changing parties; amending applications

- (a) a person who should have been included as a party has not been included as a party or that a party has been incorrectly named, the Minister or the Board, as the case may be, shall, unless it would be unfair to do so, require that the person be substituted or added as a party to the proceedings, or be correctly named;
- (b) a person who has been included as a party should not be included as a party, the Minister or the Board, as the case may be, shall require that the person be removed as a party to the proceedings; or
- (c) an amendment to the application or the notice of appeal is justified and fair, the Minister or the Board, as the case may be, may direct the application or notice of appeal be amended accordingly.

20. The Minister or the Board, as the case may be, may refuse to accept any application or appeal or to continue any proceedings where, in the opinion of the Minister or the Board, as the case may be, the matter is trivial, frivolous, vexatious or has not been initiated in good faith.

Frivolous or vexatious applications or appeals

Withdrawing application

21.—(1) An applicant may withdraw an application at any time before the time for filing written representations has ended and thereafter the application may only be withdrawn with the consent of the Minister and the Minister may impose terms on which his or her consent is given.

Withdrawing appeal

(2) A landlord or tenant may withdraw an appeal at any time before the hearing of the appeal has commenced but, where the hearing has commenced, the appeal may only be withdrawn with the consent of the Board and the Board may impose terms on which its consent is given.

Parties may examine material

22. All parties to a proceeding under this Act are entitled to examine, and the Minister and the Board, as the case may be, shall make available for examination, all material filed with the Minister or the Board pertaining to the proceeding.

Terms and conditions

23.—(1) The Minister or the Board may include in any order, terms and conditions the Minister or the Board, as the case may be, considers proper in all the circumstances.

Clerical errors

(2) An order made by the Minister or by the Board that contains an error arising from an accidental slip or omission may be amended by the Minister or the Board, as the case may be, at any time.

Enforcement of order for the payment of money

24.—(1) A certified copy of an order of the Minister or the Board, as the case may be, for the payment of money may be filed with the Supreme Court or with the District Court and, on being filed, the order has the same force and effect and all proceedings may be taken on it, as if it were a judgment of that Court.

Variation of order

(2) Where an order filed under subsection (1) is rescinded or varied, upon filing in accordance with subsection (1), the order or decision rescinding or varying the order previously made,

(a) if the order or decision rescinds the order previously made, the order previously made ceases to have effect for the purposes of subsection (1); or

(b) if the order or decision varies the order previously made, the order previously made as so varied may be enforced in a like manner as an order or decision filed under subsection (1).

PART IV

RENT REVIEW HEARINGS BOARD

25. A board to be known as the Rent Review Hearings Board is established. Board established

26.—(1) The Board shall be composed of such number of members as the Lieutenant Governor in Council may appoint. Composition of Board

(2) The members of the Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. Remuneration

(3) The *Public Service Superannuation Act* and the *Superannuation Adjustment Benefits Act* apply to members of the Board. Application of R.S.O. 1980, cc. 419, 490

27. Members of the Board shall not be members of the public service, and shall hold office during pleasure. Term of office

28. One member of the Board constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Board. Quorum

29.—(1) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman and another of the members as vice-chairman. Chairman and vice-chairman

(2) The chairman shall from time to time assign members of the Board to its various sittings and may change such assignments at any time and shall be the chief executive officer of the Board. Chairman chief executive officer

(3) Where the chairman is absent or unable to act, the vice-chairman may act as chairman. Absence, etc., of chairman

30. Where a member of the Board resigns or retires, the member may, in connection with any matter in which the member participated as a member of the Board, carry out and complete any duties or responsibilities and exercise any powers that the member would have had if the member had not ceased to be a member of the Board. Completion of matters by members who resign or retire, etc.

31. The members shall devote the whole of their time to the performance of their duties as members of the Board and shall not accept or hold any office or employment inconsistent with such duties. Members full time

Staff
R.S.O. 1980,
c. 418

32. Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*.

Professional
assistance

33. The Board may engage persons other than those appointed under section 32 to provide professional, technical or other assistance to the Board and may prescribe the duties and terms of the engagement and provide for the payment of the remuneration and expenses of such persons.

Immunity
for acts done
in good faith

34. No action or other proceeding for compensation or damages shall be instituted against the Board, any member or any member of the Board staff, for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Publication
of decisions

35. The Board shall periodically prepare and publish a summary of significant decisions of the Board and the reasons therefor.

Board to
adopt
expeditious
procedures

36. The Board shall adopt the most expeditious method of determining the questions arising in any proceeding that affords to all persons affected by the proceedings an adequate opportunity to know the issues and be heard on the matter.

Decision to
be on merits

37.—(1) Every decision of the Board shall be upon the real merits and justice of the case.

Board to
ascertain
substance of
transactions
and activities,
etc.

(2) In determining the real merits and justice of the case, the Board shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and in doing so,

- (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and
- (b) may have regard to the pattern of activities relating to the residential complex.

Audit

38. The accounts of the Board shall be audited annually by the Provincial Auditor.

Annual
report

39.—(1) The Board shall at the close of each year file with the Minister an annual report upon the affairs of the Board.

Further
reports

(2) The Board shall make such further reports to the Minister and provide the Minister with such information as the Minister from time to time requires.

(3) The Minister shall submit the reports to the Lieutenant Governor in Council and shall then lay the reports before the Assembly if it is in session or, if not, at the next ensuing session.

Tabling
of reports

40. All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of moneys appropriated therefor by the Legislature.

41. The Board may charge and collect such fees as are prescribed for furnishing to any person, at his or her request, copies of forms, notices or documents filed with or issued by the Board.

Moneys

Fees

PART V

RENT REGISTRY

42. In this Part,

Definition

“actual rent” means,

(a) in respect of residential complexes containing more than six rental units,

(i) the rent actually charged for each rental unit as of the 1st day of July, 1985, or

(ii) where a rental unit in a residential complex was not rented on the 1st day of July, 1985, the rent actually charged for the rental unit when that rental unit is first rented after that date, and

(b) in respect of residential complexes containing six or fewer rental units,

(i) the rent actually charged for each rental unit as of a date to be prescribed, or

(ii) where a rental unit in a residential complex was not rented on the date mentioned in sub-clause (i), the rent actually charged for the rental unit when the rental unit is first rented after that date.

43. This Part applies,

Application
of Part

(a) to all residential complexes containing more than six rental units; and

- (b) on a date to be prescribed, to all residential complexes containing six or fewer rental units.

Establishment
of rent
registry
by Minister

44.—(1) The Minister shall establish and maintain a rent registry for all residential complexes that are subject to this Part.

Furnishing of
information
from rent
registry

(2) The Minister shall, on the request of any person made in the prescribed manner, furnish that person with the information recorded in the rent registry referred to in subsection (1) in respect of any rental unit.

Fees

(3) The Minister may charge such fees as are prescribed for furnishing information under subsection (2).

Filing of
statement
of actual
rent by
landlord

45.—(1) Every landlord of a residential complex containing more than six rental units shall file a statement in the prescribed form with the Minister setting out for each rental unit in the residential complex the following information:

1. The name and address of the landlord and, where the landlord is not ordinarily resident in Ontario, the name and the address of the landlord's representative or agent in Ontario.
2. The municipal address and a concise description by reference to lot and registered plan number, if any, and the assessment roll number of the residential complex in which the rental units are situate.
3. The number, type (by number of bedrooms) and location (by suite number or other means of identification) of the rental units in the residential complex that are subject to rent regulation under Part VI, together with the actual rent charged for each such rental unit and the date on which the rent was last increased.
4. The number, type and location of the rental units, if any, in the residential complex that are exempt from rent regulation under Part VI, together with the reason why each such rental unit is exempt from Part VI.
5. Those services and facilities, accommodations and things included in the actual rent for which a separate charge is allocated and the amount of each.
6. Whether or not an application or decision under section 52 (whole building review) or section 126 of

the *Residential Tenancies Act* is pending or whether a notice of rent increase has been given and if so, the amount of the rent increase applied for.

R.S.O. 1980,
c. 452

7. The address of the place in Ontario where the landlord's books of account and rent rolls for the residential complex are ordinarily kept.
8. Such other information as is prescribed.

(2) The statement filed with the Minister under subsection (1) shall be accompanied by a statutory declaration made by the landlord or, if the landlord is a corporation, made by the president, secretary or other senior officer thereof, declaring that the information contained in the statement is, to the declarant's belief, true and complete.

Statutory
declaration

(3) Where a rental unit in a residential complex was rented on the day this Part comes into force, the landlord shall file the statement mentioned in subsection (1) on or before the 1st day of June, 1986.

Time for
filing

(4) Where a rental unit in a residential complex was not rented on the day this Part comes into force, the landlord shall file the statement mentioned in subsection (1) within six months of the day the rental unit first becomes rented and thereafter every six months until a statement has been filed in respect of all the rental units in the residential complex.

Idem

(5) Every landlord of a residential complex containing six or fewer rental units shall file a statement in the prescribed form with the Minister containing the information described in subsection (1) on or before a day to be prescribed and thereupon subsections (2) and (4) apply with necessary modifications.

Idem

46.—(1) The Minister shall record the information contained in every statement filed under section 45 in the rent registry established and maintained under section 44 and shall thereupon give to the landlord who filed the statement a notice confirming the recording of the information in the rent registry.

Recording of
information
by Minister
in rent
registry

(2) A landlord shall within fifteen days of receiving the notice under subsection (1) either,

Duty of
landlord
when notice
received

- (a) give a copy of the notice to the tenant of each rental unit in the residential complex; or

(b) request the Minister to correct any information provided in the statement filed under section 45 or to correct any clerical errors in the recording of the information as may be disclosed by the notice.

Amendment
of rent
registry
by Minister

(3) Where at any time the Minister is satisfied that a correction should be made to the information recorded in the rent registry, the Minister shall amend the rent registry accordingly and give to the landlord a notice confirming the recording of the information as corrected in the rent registry.

Copy of
notice to
be given
by landlord
to tenant

(4) Not later than fifteen days from receiving a corrected notice from the Minister under subsection (3), the landlord shall give a copy of the corrected notice to the tenant of each rental unit in the residential complex.

Statutory
declaration
re: service

(5) Not later than five days from giving a copy of the notice required in subsection (1) or the corrected notice in subsection (4), the landlord shall file with the Minister a statutory declaration of the landlord or, if the landlord is a corporation, of the president, secretary or other senior officer thereof, that a copy of the notice or corrected notice was given to the tenant of each of the rental units in the residential complex.

Application
by tenant
disputing
amount of
rent in notice

47.—(1) Not later than one year from the day the declaration referred to in subsection 46 (5) was filed with the Minister, a tenant may by application in the prescribed form to the Minister dispute the amount of the actual rent for the tenant's rental unit as set out in the notice.

Grounds for
application

(2) An application under subsection (1) shall be made only on one or the other or both of the following grounds:

1. That the actual rent was lower than the amount set out in the notice.
2. That the actual rent was in excess of the lawful amount permitted to be charged under this Act, the *Residential Tenancies Act* and *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

R.S.O. 1980,
c. 452
1975 (2nd
Sess.), c. 12
Justification
of actual
rent by
landlord

(3) Where an application is made by a tenant based on paragraph 2 of subsection (2), the landlord may justify the actual rent set out in the notice where the landlord establishes that, when to the amount of rent charged for the rental unit on the 29th day of July, 1975, or any time thereafter, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and the *Residential Tenancies*

Act, up to the actual rent date, the resulting amount is equal to or greater than the actual rent set out in the notice.

(4) Where an application is made to the Minister by a tenant under this section, the Minister shall declare the actual rent for the rental unit which shall be deemed to be the lawful rent as of the actual rent date and may make any order that the Minister is empowered to make under section 56.

Order of the Minister

(5) If no application is brought under subsection (1) within the one-year period mentioned therein, the actual rent recorded in the rent registry in respect of a rental unit shall be deemed to be the lawful rent of that rental unit as of the actual rent date.

If no application brought

48. The Minister shall keep current the information recorded in the rent registry by incorporating, where applicable,

Register to be kept current

- (a) an order made under this Act;
- (b) an order made under the *Residential Tenancies Act*; R.S.O. 1980,
c. 452
- (c) a statutory increase permitted to be taken under this Act; and
- (d) a statutory increase that was permitted under Part XI of the *Residential Tenancies Act*.

PART VI

RENT REGULATION

49. The rent charged for a rental unit shall not be increased unless a period of at least twelve months has elapsed since the date of the last rent increase.

Twelve-month period between rent increases

50.—(1) Unless otherwise authorized under this Act, no landlord shall increase the rent charged for a rental unit,

Maximum increase without application

- (a) to take effect on or after the 1st day of August, 1985, and before the 1st day of January, 1987, by more than 4 per cent; and
- (b) to take effect on or after the 1st day of January, 1987, and to take effect on and after the 1st day of January in each subsequent year, by more than such percentage as is calculated in accordance with a prescribed schedule,

of the last rent that was charged for the rental unit for an equivalent rental period.

Application

(2) A landlord may increase the rent charged for a rental unit by more than the amount permitted in subsection (1) without making an application under section 52 provided that the increased rent is not higher than the maximum rent as of the date the rent increase takes effect.

Application

R.S.O. 1980,
c. 452

51.—(1) This section applies only to rental units that, before the repeal of clauses 134 (1) (c), (d) and (e) of the *Residential Tenancies Act* by section 84 of this Act, were exempt from Part XI of that Act.

Notice
deemed
for
4 per cent

(2) A notice of rent increase to increase the rent charged for a rental unit by more than 4 per cent of the last rent that was charged for an equivalent rental period given before this section comes into force to take effect on or after the 1st day of August, 1985 shall be deemed to be for an increase of 4 per cent except, that where an order of the Minister or the Board on an application under section 52 permits an increase other than 4 per cent, the notice of rent increase shall be deemed to be for the increase permitted by the order.

Landlord to
repay excess
rent or bring
application
under s. 52

(3) A landlord who has increased the rent charged for a rental unit by more than 4 per cent effective on or after the 1st day of August, 1985 shall, on or before the sixtieth day after the coming into force of this section,

- (a) pay to the tenant of the rental unit the amount of the rent paid by the tenant that is in excess of a 4 per cent increase; or
- (b) apply to the Minister under section 52 (whole building review) even though the time for making such an application set out in subsection 52 (1) has expired.

Maximum
rent
increase

(4) In an application under section 52 as provided for in clause (3) (b), the Minister shall, in making an order under section 53, set the maximum rent that may be charged for each rental unit that is under review that does not exceed the increased rent specified by the landlord in a notice of rent increase mentioned in subsection (2).

Application
in respect of
previously
exempt units

(5) Where,

- (a) before the day this section comes into force, the Residential Tenancy Commission has made an order setting the maximum rents that may be

charged for rental units in a residential complex pursuant to an application under section 126 of the *Residential Tenancies Act*; and

- (b) in respect of one or more rental units in the residential complex, the order did not set the maximum rents that may be charged for those rental units because the monthly rental was \$750 or more before the effective date of the first rent increase permitted by the order,

the landlord of the residential complex may apply to the Minister under section 52 only in respect of all the units described in clause (b), the rent for which was increased by more than 4 per cent on or after the 1st day of August, 1985 and before twelve months elapsed from the effective date of the first rent increase permitted by the order mentioned in clause (a), and the Minister has jurisdiction to consider the application and to set the maximum rents that may be charged notwithstanding that not all of the rental units in the residential complex are included in the application.

(6) In making an order setting the maximum rents that may be charged for the rental units included in an application made under subsection (5), the Minister shall apply the total rent increase percentage previously determined by the Residential Tenancy Commission and applied by it in setting the maximum rents in the order described in clause (5) (a).

Order of
Minister

(7) Where a landlord fails to comply with clause (3) (a) or (b), the tenant may,

- (a) deduct the amount of the rent paid by the tenant that is in excess of a 4 per cent increase from a subsequent rent payment and so continue until the full amount of the excess rent has been satisfied; or
- (b) make an application to the Minister under subsection 56 (2).

Where
landlord
fails to
comply
with cl.
(3) (a)
or (b)

52.—(1) Where a landlord desires to increase the rent charged for a rental unit by more than the percentage referred to in subsection 50 (1), the landlord may apply to the Minister in the prescribed form at least ninety days before the effective date of the first intended rent increase for an order permitting the landlord to do so, whether or not the rental unit is the subject of a tenancy agreement at the time of application.

Application
by landlord

(2) When the landlord applies to the Minister under subsection (1), the landlord shall, as part of the same application,

Whole
building
review

apply for a determination of the rents that may be charged for all of the rental units in the residential complex in which the units are situate when such units are rented or re-rented during the twelve-month period following the effective date of the first rent increase applied for, whether or not those units are the subject of tenancy agreements at the time of application.

Filing of
cost revenue
statement

(3) The landlord shall file with the Minister a cost revenue statement in the prescribed form together with all documents that the landlord relies upon in support of the application and such other material as may be prescribed not later than seventy days before the effective date of the first rent increase applied for.

Extension of
filing date

(4) The Minister may extend the date of filing specified in subsection (3) for such period of time and on such terms and conditions as the Minister may in his or her discretion allow.

Inspection

(5) Any party to the application may inspect the cost revenue statement and the material filed in respect of the application and may in writing submit representations in respect of the application and the material filed therewith not later than fifty days before the effective date of the first rent increase applied for or such later date as the Minister may in his or her discretion allow.

Extension
of time

(6) Where the Minister extends the date for filing under subsection (4), the Minister shall notify each of the tenants affected by the application of the extended filing date and the tenant shall be permitted twenty days from the extended filing date to submit written representations as provided for in subsection (5).

Determi-
nation
by Minister
of total
rent increase

53.—(1) Where an application is made by a landlord to the Minister under section 52, the Minister shall determine the total rent increase for the residential complex that is justified by,

- (a) the prescribed allowances for increases in operating costs;
- (b) the findings of the Minister concerning financing costs, capital expenditures and extraordinary operating costs that the landlord has experienced or will experience in respect of the residential complex;
- (c) the findings of the Minister concerning a financial loss that the landlord has experienced or will experience in respect of the residential complex;

- (d) the findings of the Minister concerning a change in the services and facilities provided or in the standard of maintenance and repair in respect of the residential complex or any rental unit located therein;
- (e) in respect of a residential complex no part of which was occupied as a rental unit before the 1st day of January, 1976, the prescribed rate of return on the landlord's initial invested equity and capitalized losses as defined in the regulations;
- (f) the findings of the Minister concerning financing costs no longer borne by the landlord and which were previously allowed in determining rent increases under this Act or the *Residential Tenancies Act*;
- (g) the findings of the Minister concerning matters prescribed by the regulations.

R.S.O. 1980,
c. 452

(2) In making findings concerning financing costs under clause (1) (b), the Minister shall consider increases in financing costs resulting from the landlord's purchase of the residential complex only to the extent necessary to prevent a financial loss by the landlord.

Limitation on
consideration
of financing
costs

(3) When the total rent increase for the residential complex has been determined under subsection (1), if the resulting gross revenue does not exceed the costs found under clauses (1) (a) and (b) by at least 2 per cent, the Minister may, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the gross revenue to not more than 2 per cent above the costs found.

Relief of
hardship

(4) Subsection (3) does not apply where the Minister allows a financial loss arising out of the circumstances set out in subsections (2) and (5).

Where
subs. (3)
does not
apply

(5) Where a landlord claims a financial loss arising out of an increase in the financing costs of the residential complex resulting from a purchase or purchases of the residential complex, the Minister, when determining the total rent increase for the residential complex, shall allow in the initial year (as the component of the total increase in rent determined by the Minister that is attributable to such increase in financing costs) not more than 5 per cent of the total of the last lawful rents that were charged for the residential complex and in subsequent years, where the financial loss is carried forward as a

Limit on rent
increase
attributable
to
increased
financing
costs
resulting
from
purchase of
residential
complex

claim, the amount allowed in respect thereof by the Minister in any such year shall not exceed 5 per cent of the total of the last lawful rents that were charged for the residential complex.

Interpretation

(6) For the purposes of subsections (2) and (5), "purchase" means the acquisition of a residential complex, after the 31st day of December, 1979, by any means whatsoever and includes the acquisition, whether by way of transfer, assignment or otherwise, of an interest, in whole or in part, in an option to purchase or in any agreement to purchase a residential complex.

Allowance
of interest

(7) In making findings concerning capital expenditures under clause (1) (b), the Minister shall allow interest on the expenditure, when financed by borrowing, either at the actual rate paid or at the rate calculated in the manner prescribed or when financed out of the landlord's own funds, at the rate calculated in the manner prescribed.

Apportion-
ment of total
rent increase

(8) In apportioning the total rent increase amongst the rental units in the residential complex, the Minister may take into account the following matters:

1. The rent schedule proposed by the landlord's application.
2. Variations, and the reasons therefor, in the rents being charged by the landlord for similar rental units within the residential complex.
3. The matters prescribed by regulation.

Equalization
of rents

(9) In apportioning the total rent increase under subsection (8), the Minister shall set the maximum rent that may be charged for a rental unit so that the landlord may achieve equalization of rents charged for similar rental units within the residential complex over a period of five years.

Idem

(10) Notwithstanding subsection (9), the Minister may apportion the rent increase to achieve immediate equalization of the rents charged for similar rental units where the amount of rent increase required for equalization does not exceed the prescribed amount.

Order re
maximum
rent
chargeable
for each unit

(11) Where the Minister has determined and apportioned the total rent increase under this section,

- (a) the Minister shall order the maximum rent that may be charged for each rental unit in the residential

complex that is under review and the earliest date that each may take effect; and

- (b) the Minister may order that the landlord or tenant pay to the other any sum of money that is owed to the other by reason of the order of the Minister setting the maximum rent for a rental unit.

(12) Where a landlord has applied for a rent increase greater than the amount permitted by subsection 50 (1), the Minister may, if his or her findings so justify, allow a rent increase of less than the amount permitted by subsection 50 (1).

Minister may order increase less than statutory increase

(13) In any application under this Part, the Minister may, if his or her findings so justify, order a decrease in the total rent that may be charged for a residential complex or a decrease in the rent that may be charged for any rental unit in the residential complex.

Minister may order decrease in rent

54.—(1) With the authorization in writing of the tenants of not less than,

Application by tenants for reduction of rents

- (a) 50 per cent in number of the rental units in a residential complex, containing twenty or fewer rental units; or
- (b) 25 per cent in number of the rental units in a residential complex containing twenty-one or more rental units,

an application in the prescribed form may be made to the Minister by the tenants requesting a reduction of rents in respect of the residential complex.

(2) An application may be brought under subsection (1) only for the purpose of reducing an increase in rents previously ordered by the Minister or ordered by the Board under this Act or by the Residential Tenancy Commission under the *Residential Tenancies Act* for the residential complex because of an increase in financing costs that are no longer borne by the landlord at the time the application is made.

Purpose of application

R.S.O. 1980, c. 452

(3) An application under this section may be made not less than 120 days before the anniversary of the effective date of the first rent increase ordered in an application under section 52 (whole building review) or section 126 of the *Residential Tenancies Act*.

Time for bringing application

Contents of application

(4) The application shall specify the specific financing cost or costs that it is alleged are no longer borne and that justifies a reduction in the total rent for the residential complex.

Notice to landlord

(5) On receipt of the tenants' application, the Minister shall notify the landlord in writing of receipt of the application.

Landlord may apply under s. 52

(6) On receipt of notice of the tenants' application, the landlord may make an application under section 52 not less than ninety days before the anniversary of the effective date of the first rent increase previously ordered in respect of the residential complex.

Where application made for whole building review

(7) Where the landlord makes an application under section 52 within the time specified in subsection (6), the requested reduction of rent application will be considered and determined together with the application for whole building review.

When Minister to consider application

(8) Where the landlord does not make an application under section 52 within the time specified in subsection (6), the Minister shall consider the application made under subsection (1).

Determination of rent decrease by Minister

(9) After considering the application, the material and information filed and the written representations submitted by any party to the application, the Minister shall determine the total rent decrease for the residential complex that the Minister finds justified by the financing costs that are no longer borne.

Apportionment of decrease

(10) The Minister shall apportion the total rent decrease determined under subsection (9) amongst the rental units on an equal percentage basis.

Order of Minister

(11) Where the Minister has apportioned the rent decrease under subsection (10), the Minister,

- (a) shall order the rent decrease for each rental unit in the residential complex and declare the maximum rent that may be charged for each rental unit; and
- (b) may order the landlord to pay to a tenant any sum of money that is owed to the tenant by reason of the order.

Effective date of order

(12) An order made under subsection (11) shall take effect as of the date of the tenants' application to the Minister under subsection (1).

Application by tenant disputing intended rent increase

55.—(1) A tenant who desires to dispute an intended rent increase for his or her rental unit that does not exceed the

amount that the landlord is permitted to charge under subsection 50 (1) may make an application to the Minister for an order requiring the landlord to reduce the amount of the rent increase.

(2) Subsection (1) does not apply to a rent increase that results in a rent not exceeding the maximum permitted by an order by the Minister or the Board for the applicable rental unit. Exception

(3) An application under this section shall be made not less than sixty days before the effective date of the intended rent increase. Time for application

(4) Where an application is made by a tenant under this section, in determining a rent increase for the rental unit, the Minister shall, except where there has been an application under section 52 (whole building review), consider only the following matters: Considerations where tenant applies

1. Variations and the reasons therefor in the rent being charged by the landlord for similar rental units within the residential complex.
2. Rents being charged by other landlords for similar rental units situate in similar residential complexes within the same geographical vicinity.
3. A change shown to have occurred in the standard of maintenance and repair or in the services and facilities provided that affects the rental unit.

(5) Where the Minister has made a determination on the application, Order setting maximum rent chargeable for the unit

- (a) the Minister shall make an order setting the maximum rent that may be charged for the rental unit under review; and
- (b) the Minister may order the landlord or tenant to pay to the other any sum of money that is owed to the other by reason of the decision of the Minister setting the maximum rent for the rental unit.

56.—(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part. Tenant not liable to pay illegal rent increase

(2) Where, on the application of a tenant, the Minister determines that the tenant has paid an amount of rent that is Remedy

R.S.O. 1980,
c. 452
1975
(2nd Sess.),
c. 12

in excess of that permitted by this Part or Part XI of the *Residential Tenancies Act* or by *The Residential Premises Rent Review Act, 1975 (2nd Session)*, the Minister shall order the landlord to whom the excess rent was paid to pay the excess to the tenant and shall declare the maximum rent that may be charged for the rental unit concerned.

Where excess
rent not to
be repaid

(3) Notwithstanding subsection (2), the Minister shall not make an order for the payment of excess rent charged for a rental unit prior to the 1st day of August, 1985, where the sum of the excess rent and the lawful rent for the rental unit does not exceed the rent that could have been charged for the rental unit in the period when the excess rent was paid if to the amount charged for the rental unit on the 29th day of July, 1975, or at any time thereafter, is added all increases permitted under *The Residential Premises Rent Review Act, 1975 (2nd Session)* and the *Residential Tenancies Act*.

1975 (2nd
Sess.), c. 12
R.S.O.
1980, c. 452

Limitation

(4) No application shall be brought under subsection (2) after the expiration of six years from the time the excess rent is alleged to have been paid.

Where vacant
unit becomes
rented

57. Where a rental unit that was previously rented has not been rented for a period of twelve months or more then becomes rented, the maximum rent shall be the amount the landlord would have been entitled to charge if the unit had been rented during that period and the landlord had given notice or notices of rent increase in the amount permitted by this Act.

Where rental
unit rented
for first time

58. Where a rental unit in a residential complex is rented for the first time, the rent charged by the landlord shall be deemed to be the maximum rent for that unit.

Filing of
documents
by tenant

59.—(1) Where a tenant makes an application under section 47, 54, 55 or 56, the tenant shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the tenant relies upon in support of the application and such other material as may be prescribed.

Extension of
time for
filing

(2) The Minister may extend the date of filing set out in subsection (1) for such period of time and upon such terms and conditions as the Minister may allow.

Inspection
and
submission of
representa-
tions

(3) Any party to an application referred to in subsection (1) may inspect the application and the documents and material filed in respect thereof and may in writing submit representations in respect of the application and the material filed there-

with not later than thirty days from the date of making the application, or such later date as the Minister may allow.

(4) Where the Minister under subsection (2) extends the date for filing, the Minister shall notify the landlord affected by the application of the extended filing date and the landlord shall be permitted fifteen days from the extended filing date to submit written representations as provided for in subsection (3).

Effect of extension of time

60. The Minister may at any time in his or her discretion refer any application made to the Minister to the Board and the Board in such case shall hear and determine the application as though it were an appeal under Part VII.

Referral of application to Board

61. The Minister in respect of any application under this Act may,

Minister may investigate, etc.

- (a) conduct any enquiry or inspection the Minister considers necessary; and
- (b) question any person, by telephone or otherwise.

62.—(1) In making any determination in an application under this Act, the Minister,

Matters to be considered by Minister

- (a) shall consider any documents, material and written representations submitted in respect of the application; and
- (b) may consider any relevant information obtained by the Minister in addition to the information referred to in clause (a), provided that the Minister first informs the parties adversely affected of the additional information and gives them an opportunity to explain or refute it.

(2) Where the Minister is required under subsection (1) to consider any written representations, the Minister shall ensure that the parties have been afforded an adequate opportunity to review the written representations and to submit written representations by way of reply thereto.

Opportunity to review and submit written representations

63. Where an application is made to the Minister under this Act, the Minister is not required to hold a hearing in respect of the application and the *Statutory Powers Procedure Act* does not apply to the Minister in the exercise of a statutory power of decision under this Act.

Non-application of R.S.O. 1980, c. 484

Order of
Minister
final

Copy of
order

Appeal from
order of
Minister

Fees

Record

Where
appeal
not to be
proceeded
with

64.—(1) An order made by the Minister under this Act, subject to Part VII, is final, binding and not subject to review and shall take effect and is enforceable according to its terms from the date it is made.

(2) Where the Minister makes an order under this Act, the Minister shall forthwith give a copy of the order to each of the parties to the application.

PART VII

APPEALS

65.—(1) A landlord or a tenant may, within thirty days of the giving of the order of the Minister, appeal any order of the Minister made under this Act by filing a notice or notices of appeal in the prescribed form with the Board, together with,

- (a) any documents that the party appealing relies upon in support of the appeal and which were not filed with the Minister on the application; and
- (b) the fee determined in accordance with the prescribed schedule.

(2) The Board may, where in its opinion the payment of the fee would constitute a hardship to the person appealing, waive the requirement or require the payment of such lesser fee as to the Board seems appropriate in the circumstances.

(3) Where a notice of appeal is filed with the Board under subsection (1), a copy of the notice shall be given by the Board to the Minister who shall thereupon forward to the Board,

- (a) the original or a true copy of the application;
- (b) the original or a true copy of all documents and material filed in respect of the application; and
- (c) a certified copy of the order appealed from.

(4) The Board shall not proceed with an appeal by a tenant or tenants from an order made on an application under section 54 (cost no longer borne) unless the appeal is authorized in writing by not less than the same percentage of tenants as were required to authorize the application under that section.

(5) The parties to an appeal from an order made on an application under section 52 (whole building review) are the landlord and,

- (a) where an appeal is authorized in writing by a tenant from each of not less than 25 per cent of the total number of rental units in the residential complex, all the tenants of rental units in the residential complex; and
- (b) where an appeal is not authorized in writing by at least 25 per cent of the total number of rental units in the residential complex, that tenant who has made, or those tenants who have authorized, the appeal.

(6) Where any person has filed a notice of appeal, the other parties to the appeal shall, within thirty days of the filing of the notice of appeal, file with the Board the documents and materials that the parties intend to rely upon at the hearing of the appeal.

Filing of documents, etc., by respondent

(7) After receiving a notice of appeal under subsection (1), the Board shall give a notice to the parties stating the date, place and time when the appeal will be heard.

Notice to parties

(8) Where several different appeals have been made to the Board, and the Board is of the opinion that it would be appropriate to determine the issues raised by the appeals together, the Board may hear and determine the issues in dispute at a common hearing.

Issues may be heard together

(9) Where the Board is of the opinion that it would be appropriate to deal with some of the issues raised by an appeal at separate hearings, the Board may direct that some of the issues be dealt with separately and may set additional hearing dates for the determination of those issues.

Issues may be heard separately

66. The Board shall conduct a hearing under this Part as a hearing *de novo*.

Hearing *de novo*

67.—(1) The *Statutory Powers Procedure Act* applies to proceedings by the Board in the exercise of a statutory power of decision.

Application of R.S.O. 1980, c. 484

(2) The giving to a party of a copy of a notice of appeal to the Board shall be deemed to be compliance with section 8 of the *Statutory Powers Procedure Act*.

Deemed compliance
R.S.O. 1980, c. 484

Procedure

68. Subject to the provisions of the *Statutory Powers Procedure Act*, and except as otherwise provided for by this Act, the Board may determine its own procedure for the conduct of hearings.

Matters
Board
to consider

69.—(1) In addition to any material, evidence or information submitted to the Board on an appeal, in hearing any appeal, the Board may consider,

- (a) any matter the Minister was entitled to consider on the application;
- (b) any material, and documents submitted to the Minister on the application; and
- (c) such other matters as it deems necessary or advisable for the purpose of dealing with the appeal.

Board may
investigate,
etc.

(2) The Board, in respect of any appeal, may,

- (a) conduct any enquiry or inspection that it considers necessary; and
- (b) question any person by telephone or otherwise.

Additional
material

70. The Board may direct any party to the appeal to file additional material and the hearing shall not proceed until the other parties have had an opportunity to examine the additional material.

Board may
question
parties, etc.

71. At the hearing, the Board may question the parties who are in attendance at the hearing and any witnesses with a view to determining the truth concerning the matters in dispute.

Other
relevant
information

72. In making its determination, the Board may consider any relevant information obtained by the Board in addition to the evidence given at the hearing, provided that it first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Order of
Board

73. Upon completion of a hearing, the Board shall by order,

- (a) affirm the order of the Minister;
- (b) vary the order of the Minister; or
- (c) substitute its own order for the order of the Minister,

and shall send copies of the order to the parties to the appeal.

74. Where, within one year of the date of an order of the Board the Board is of the opinion that there has been a serious error, the Board may, on its own motion, rehear any appeal and may affirm, rescind, amend or replace the order.

Power to
rehear

75. An order of a Board member shall be deemed to be an order of the Board.

Order of
member
deemed
order
of Board

Costs

76.—(1) The Board may at its discretion award costs in respect of an appeal and where the Board does so, it may fix the costs at a sum certain or direct that they be assessed.

(2) The Board may order by whom and to whom the costs are to be paid, and by whom the costs are to be assessed.

Assessment

77.—(1) Any party to an appeal under section 65 may, on a question of law, appeal an order of the Board to the Divisional Court.

Appeal to
Divisional
Court

(2) The Board is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal under this section.

Board
entitled to
be heard on
appeal

(3) Where an appeal is brought under subsection (1), the Divisional Court shall hear and determine the appeal and may,

Power of
Divisional
Court on
appeal

- (a) affirm, rescind, amend or replace the decision or order; or
- (b) remit the matter to the Board with the opinion of the Divisional Court,

and may make,

- (c) any other order in relation to the matter that it considers proper; and
- (d) any order, with respect to costs, that it considers proper.

78. An appeal from an order of the Minister or the Board does not stay the order pending the hearing of the appeal.

Orders not
stayed
pending
appeal

PART VIII

MISCELLANEOUS

Regulations

79. The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 5, the form of the notice of a rent increase;
- (b) prescribing forms of applications to the Minister and material to be furnished therewith;
- (c) prescribing the form of a notice of appeal to the Board;
- (d) prescribing, for the purposes of section 41, fees for the furnishing of copies of forms, notices or documents;
- (e) prescribing, for the purposes of clause 42 (b), the actual rent date;
- (f) prescribing, for the purposes of clause 43 (b), the date of the application of Part V;
- (g) prescribing, for the purposes of subsection 44 (2), the form of a request for information from the rent registry;
- (h) prescribing, for the purposes of subsection 44 (3), fees for the furnishing of information from the rent registry;
- (i) prescribing, for the purposes of subsection 45 (1), the form of the statement to be filed and the information to be contained therein;
- (j) prescribing, for the purposes of subsection 45 (5) the day on or before which a statement shall be filed;
- (k) prescribing a schedule for the calculation of the percentage referred to in clause 50 (1) (b);
- (l) prescribing procedural rules and administrative policies to be observed in the interpretation and application of this Act;

- (m) prescribing, for the purposes of clause 53 (1) (a), the allowances for increases in operating costs;
- (n) prescribing, for the purposes of clause 53 (1) (e), the rate of return on invested equity and capitalized losses and defining the meaning of the expressions;
- (o) prescribing, for the purposes of clause 53 (1) (g), matters in respect of which the Minister may make findings;
- (p) prescribing, for the purposes of subsection 53 (7), the manner of calculating interest rates;
- (q) prescribing, for the purposes of paragraph 3 of subsection 53 (8), matters to be taken into account by the Minister;
- (r) prescribing, for the purposes of subsection 53 (10), the maximum amount of rent increase for equalization;
- (s) prescribing, for the purposes of subsection 65 (1), a schedule of fees to be paid on an appeal;
- (t) prescribing the form of a cost revenue statement;
- (u) prescribing anything that by this Act may be prescribed.

80. Substantial compliance with the requirements of this Act respecting the contents of forms, notices or documents is sufficient unless the Minister or the Board, as the case may be, is of the opinion that it would result in unfairness to any person.

Substantial
compliance
with forms,
etc.,
sufficient

81. Any person may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act.

Right to
organize or
participate in
association

82.—(1) Any person who,

Offences

- (a) knowingly fails to obey an order of the Minister or the Board;
- (b) knowingly furnishes false or misleading information in any application, document, written representation or statement to the Minister under this Act or in any proceedings before the Board;

- (c) increases the rent charged for a rental unit where less than twelve months has elapsed since the date of the last rent increase;
- (d) increases the rent charged for a rental unit by more than the amount referred to in subsection 50 (1) unless authorized by the Minister or the Board to do so;
- (e) charges a higher rent for a rental unit than that permitted under an order of the Minister or the Board; or
- (f) fails to file a statement with the Minister in respect of the rent registry,

and every director or officer of a corporation who knowingly concurs in the prohibited act is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Where corporation convicted

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided in subsection (1).

Limitation

(3) Proceedings shall not be commenced, in respect of an offence under subsection (1), after one year after the date on which the offence was, or is alleged to have been, committed.

Moneys

83. The moneys required for administration of this Act shall, until the 31st day of March, 1986, be paid out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

84. Clauses 134 (1) (c), (d) and (e) of the Residential Tenancies Act, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

Repeals

85. The following are repealed:

1. *Residential Complexes Financing Costs Restraint Act, 1982*, being chapter 59.
2. *Residential Complexes Financing Costs Restraint Amendment Act, 1983*, being chapter 69.
3. *Residential Complexes Financing Costs Restraint Amendment Act, 1984*, being chapter 65.

4. Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 134 and subsection 135 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980.

86.—(1) Despite the repeal of the provisions of the *Residential Tenancies Act* mentioned in paragraph 4 of section 85, those provisions shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters, and the matters referred to in clause (2) (a):

Certain provisions of R.S.O. 1980, c. 452 deemed continued in force for certain purposes

1. An application made under section 126 of the *Residential Tenancies Act* before the 1st day of August, 1985, where the effective date of the first rent increase applied for is before the 1st day of August, 1985.
2. An application made under section 127 of the *Residential Tenancies Act* before the 1st day of August, 1985, where the effective date of the disputed intended rent increase is before the 1st day of August, 1985.
3. An application made under subsection 129 (2) of the *Residential Tenancies Act* before the 1st day of August, 1985.

(2) An application made under section 126 or 127 or subsection 129 (2) of the *Residential Tenancies Act* made on or after the 1st day of August, 1985, and before the day this section comes into force may, at the written election of the applicant, either,

Election to proceed under R.S.O. 1980, c. 452 or this Act

- (a) be continued and finally disposed of under the provisions of the *Residential Tenancies Act*; or
- (b) be continued and finally disposed of as an application made under the corresponding provisions of this Act.

(3) For the purposes only of subsection (1) and clause (2) (a), the Residential Tenancy Commission shall continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until a day to be named by proclamation of the Lieutenant Governor.

Residential Tenancy Commission continued for certain purposes

Commence-
ment

87.—(1) This Act, except subsection 50 (1) and section 84, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Subsection 50 (1) and section 84 shall be deemed to have come into force on the 1st day of August, 1985.

Short title

88. The short title of this Act is the *Residential Rent Regulation Act, 1985*.

Bill 79

An Act to amend the Municipal Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading December 16th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

Section 112 of the Act prohibits bonuses in aid of any manufacturing business or of any industrial or commercial enterprise. The proposed re-enactment of section 112 continues the prohibition and sets out four specific types of financial assistance that are prohibited.

The proposed section 112a will permit municipalities to establish programs to counsel small businesses in the municipality and to encourage new small businesses in the municipality.

Bill 79**1985****An Act to amend the Municipal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 112 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

112. Notwithstanding any general or special Act, a council shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses in aid thereof, and, without restricting the generality of the foregoing, the council shall not grant assistance by,

Assistance prohibited

- (a) giving or lending any property of the municipality, including money;
- (b) guaranteeing borrowing;
- (c) leasing or selling any property of the municipality at below fair market value;
- (d) giving a total or partial exemption from any levy, charge or fee.

112a.—(1) Notwithstanding section 112, the council of a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality.

Small
business
counselling

(2) The council of a municipality,

Small
business
programs

- (a) with the approval of the Lieutenant Governor in Council, may establish and maintain one or more programs to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality; and

- (b) may participate in programs established and administered by the Ministry of Industry, Trade and Technology to encourage the establishment and initial growth of small businesses, or any class thereof, in the municipality.

Idem

- (3) The council of a municipality may enter agreements with the Minister of Industry, Trade and Technology with respect to the financing and operation of programs referred to in subsection (2).

Acquisition
and leasing
of
land, etc.

- (4) For the purposes of a program referred to in subsection (2), the council of the municipality, subject to the regulations and the terms and conditions of any agreement under subsection (3),

- (a) may acquire land and erect and improve buildings and structures for the purpose of providing leased premises for eligible small businesses or that will be leased to a corporation described in clause (d);
- (b) may make grants to corporations described in clause (d) notwithstanding section 112;
- (c) may enter into leases of real property with small businesses included in a program referred to in subsection (2);
- (d) may enter leases of real property and other agreements related to the establishment and operation of the program with a corporation without share capital established for the purposes of encouraging the establishment and initial growth of small businesses, or any class thereof, in the municipality;
- (e) may sell, lease or otherwise dispose of any of the personal property of the municipality to any eligible small business or to a corporation described in clause (d) or may provide for the use thereof by any such small business or corporation;
- (f) may provide for the use of the services of any of the employees of the municipality by any eligible small business or by a corporation described in clause (d); and
- (g) may establish a local board to administer a program established under clause (2) (a) or to administer the municipality's participation in a program referred to in clause (2) (b).

(5) Where a corporation described in clause (4) (d) leases any building or structure from a municipality, it shall use the building or structure for the purpose of providing leased premises to small businesses included in a program referred to in subsection (2). Idem

(6) Notwithstanding section 112, a lease, disposition of property or use of property or services of employees of the municipality by an eligible small business or a corporation described in clause (4) (d) may be made or provided for at less than fair market value but this subsection ceases to apply to an eligible small business at the end of thirty-six months following the day it first occupies premises leased to it under this section. Availability of assistance

(7) The following provisions apply to a local board established under clause (4) (g): Local board

1. The local board is a body corporate and shall consist of such number of members as the council of the municipality may determine.
2. A person is disqualified from being a member of the local board unless the person is qualified to be elected as a member of the council of the municipality.
3. Members shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment.
4. Upon the coming into force of the by-law establishing the local board, all the powers, rights, authorities and privileges conferred and the duties imposed on the council of the municipality by subsections (1) and (2), clauses (4) (a) to (f) and the regulations and any agreement under subsection (3) shall be exercised by the local board but subject to such limitations as the by-law may provide.
5. The local board shall submit to the council of the municipality its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the local board and, when money is so provided by the council, the treasurer of the munici-

pality shall, upon the certificate of the local board, pay out such money.

6. On or before the 1st day of March in each year, the local board shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.
7. The municipal auditor shall be the auditor of the local board and all books, documents, transactions, minutes and accounts of the local board shall, at all times, be open to the auditor's inspection.
8. The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the local board.
9. Upon the repeal of the by-law establishing the local board, the local board ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality.

Regulations

(8) The Lieutenant Governor in Council may make regulations,

- (a) prescribing maximum amounts that may be expended by municipalities or any particular municipality under a program referred to in subsection (2);
- (b) defining "small business" for the purposes of this section.

Definitions

(9) In this section,

"eligible small business" means a small business included in a program referred to in subsection (2) that is in occupation of premises leased to it under this section;

"municipality" includes a metropolitan, regional and district municipality and the County of Oxford.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Municipal Amendment Act, 1985.* Short title

Bill 80

An Act to amend the Planning Act, 1983



The Hon. B. Grandmaître
Minister of Municipal Affairs

1st Reading December 16th, 1985
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Under subsection 71 (2) of the Act, official plans of joint planning areas, unless continued by order of the Minister under subsection 74 (3), are deemed to be repealed on the 1st day of August, 1985, if not sooner repealed.

Subsection 71 (4) now reads as follows:

(4) At any time during the two year period mentioned in subsection (2), the Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan.

The effect of the re-enactment is to permit the amendment or repeal of official plans that have been continued by order of the Minister made under subsection 71 (3).

Bill 80**1985****An Act to amend the Planning Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 71 (4) of the *Planning Act, 1983*, being chapter 1, is repealed and the following substituted therefor:

(4) The Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan.

Amendment
or repeal**2. This Act shall be deemed to have come into force on the Commencement
1st day of August, 1985.****3. The short title of this Act is the *Planning Amendment Act, 1985*.** Short title

Bill 80

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 80

(*Chapter 16
Statutes of Ontario, 1985*)

An Act to amend the Planning Act, 1983

The Hon. B. Grandmaître
Minister of Municipal Affairs



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 16th, 1985 |
| <i>2nd Reading</i> | December 18th, 1985 |
| <i>3rd Reading</i> | December 19th, 1985 |
| <i>Royal Assent</i> | December 20th, 1985 |

Bill 80**1985****An Act to amend the Planning Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 71 (4) of the *Planning Act, 1983*, being chapter 1, is repealed and the following substituted therefor:

(4) The Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan.

Amendment
or repeal

2. This Act shall be deemed to have come into force on the 1st day of August, 1985.

Commencement

3. The short title of this Act is the *Planning Amendment Act, 1985*.

Short title

Bill 81**Government Bill**

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 81**An Act to amend the Workers' Compensation Act**

The Hon. W. Wrye
Minister of Labour



1st Reading December 17th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The principal purpose of the Bill is to provide for the automatic annual adjustment of benefits payable under the Act as set out in section 5 of the Bill. Under section 5, a new Part IV is enacted which provides for adjustments to be made each January 1st based on the Consumer Price Index for all items.

Other amendments are made to the Act as follows:

SECTIONS 1, 3 and 4. The purpose of these sections is to correct internal references set out in sections 11, 105 and 122 of the Act and to make the wording of sections 105 and 122 consistent with the wording of section 41.

SECTION 2. The section repeals subsection 86b (4) of the Act. The repeal would have the effect of removing members and employees of the Workers' Compensation Appeals Tribunal from the Workers' Compensation Board Superannuation Fund. It is proposed that the Public Service Superannuation Fund will be made applicable to the members and employees of the Tribunal.

Bill 81**1985****An Act to amend the Workers' Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 11 (2) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “44” in the fourth line and inserting in lieu thereof “42”.

(2) Subsection 11 (3) of the said Act is amended by striking out “39 and 45” in the third line and inserting in lieu thereof “41 and 44”.

2. Subsection 86b (4) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is repealed.

3. Subsection 105 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the assessment is based on the payroll of the employer and there is included in it the wages or salary of a worker who has been paid more than the maximum amount of average earnings upon which a loss of earnings may be calculated under section 41, the excess shall be deducted from the amount of the payroll and the assessment shall be based on the amount of it as so reduced. Deduction from payroll

4. Subsection 122 (6) of the said Act is amended by striking out “45” in the third line and inserting in lieu thereof “43” and by striking out “the rate provided by subsection 45 (1)” in the twelfth and thirteenth lines and inserting in lieu thereof “the maximum amount of average earnings upon which a loss of earnings may be calculated under section 41”.

5. The said Act is amended by adding thereto the following Part:

1986
adjustment

PART IV

138.—(1) Subject to subsections (2) and (3), on the 1st day of January, 1986, the Board shall,

- (a) adjust the dollar amounts set out in this Act and in provisions continued by section 132 by applying an indexing factor of 1.7 per cent; and
- (b) adjust average earnings by applying an indexing factor of 1.7 per cent and the Board shall make the consequential changes to the compensation payable under this Act and under provisions continued by section 132.

Exception

(2) On the 1st day of January, 1986, the amounts set out in clauses 36 (1) (c), (d), (e) and (f), as continued by section 132, are increased by 11.9 per cent.

Basis of calculation

(3) For the purposes of this Part, the amounts set out in clauses 42 (1) (a) and (b) shall be deemed to have been amended immediately before the making of the adjustment required by clause (1) (a) of this section to read as "\$11,025" and not as "\$10,500".

Increases prospective

(4) Nothing in this section entitles a person to claim additional compensation for any period before the 1st day of January, 1986 or with respect to any award commuted or paid as a lump sum before that day.

Calculation of average earnings

(5) For the purpose of calculating the adjustment under clause (1) (b) for a person who is receiving compensation under provisions continued by section 132, the average earnings shall be the amount which produces the compensation that the person is receiving as of the 31st day of December, 1985.

Indexing factor

139.—(1) On the 1st day of January in each year, beginning in 1987, an indexing factor shall be determined, based on the percentage change in the Consumer Price Index for Canada for all items, for the twelve month period ending the 31st day of October of the previous year, as published by Statistics Canada.

Annual adjustments

(2) On the 1st day of January in each year, beginning in 1987, the Board shall,

- (a) adjust the dollar amounts set out in this Act and in provisions continued by section 132 by applying the

indexing factor to the amount as adjusted under this Part on the preceding 1st day of January; and

- (b) adjust average earnings by applying the indexing factor to the average earnings as adjusted under this Part on the preceding 1st day of January and the Board shall make consequential changes to the compensation payable under this Act and under provisions continued by section 132.

(3) For the purpose of calculating the adjustment under clause (2) (b) for a person who is receiving compensation under provisions continued by section 132, the average earnings shall be the amount which produces the compensation that the person is receiving as of the day preceding the day on which the adjustment is to be made.

Calculation
of
average
earnings

(4) Nothing in this section entitles a person to claim additional compensation for any period before the effective date of an increase as a result of subsection (2) or with respect to any award commuted or paid as a lump sum before the effective date.

Increases
prospective

140. This Part does not apply to dollar amounts set out in section 86 or 116 or to fines set out in this Act.

Exceptions

141.—(1) Where a person is receiving the minimum amount of compensation payable under subsection 42 (1), (3), (4), (5) or (6) of this Act or under section 44 as continued by section 132 and that amount is increased under this Part, no other increase applies.

Where
minimum
received

(2) Where a maximum amount under section 41 of this Act or under subsection 133 (3), (4), (5) or 43 (9) as continued by section 132 is adjusted under this Part and the adjusted amount is not divisible by 100 without remainder, the Board shall increase the adjusted amount to the next amount divisible by 100 without remainder.

Maximum
amounts
rounded

142.—(1) On the 1st day of January in each year, beginning in 1986, the Board shall redetermine the net average earnings of a worker under section 44 for payments accruing after the date of redetermination by deducting from the earnings of a worker,

Annual re-
determination
of net
average
earnings

- (a) the probable income tax payable by the worker on the worker's earnings for the current year;
- (b) the probable Canada Pension Plan premiums payable by the worker for the current year; and

(c) the probable unemployment insurance premiums payable by the worker for the current year.

Idem (2) The table established by subsection 44 (2) shall set out the redeterminations calculated under subsection (1).

Commencement **6.—(1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

Idem (2) Sections 1, 3 and 4 shall be deemed to have come into force on the 1st day of April, 1985.

Idem (3) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **7. The short title of this Act is the *Workers' Compensation Amendment Act, 1985*.**

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 81

(*Chapter 17*
Statutes of Ontario, 1985)

An Act to amend the Workers' Compensation Act

The Hon. W. Wrye
Minister of Labour



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 17th, 1985 |
| <i>2nd Reading</i> | December 20th, 1985 |
| <i>3rd Reading</i> | December 20th, 1985 |
| <i>Royal Assent</i> | December 20th, 1985 |

Bill 81**1985****An Act to amend the Workers' Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 11 (2) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “44” in the fourth line and inserting in lieu thereof “42”.

(2) Subsection 11 (3) of the said Act is amended by striking out “39 and 45” in the third line and inserting in lieu thereof “41 and 44”.

2. Subsection 86b (4) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is repealed.

3. Subsection 105 (1) of the said Act is repealed and the following substituted therefor:

(1) Where the assessment is based on the payroll of the employer and there is included in it the wages or salary of a worker who has been paid more than the maximum amount of average earnings upon which a loss of earnings may be calculated under section 41, the excess shall be deducted from the amount of the payroll and the assessment shall be based on the amount of it as so reduced.

Deduction
from payroll

4. Subsection 122 (6) of the said Act is amended by striking out “45” in the third line and inserting in lieu thereof “43” and by striking out “the rate provided by subsection 45 (1)” in the twelfth and thirteenth lines and inserting in lieu thereof “the maximum amount of average earnings upon which a loss of earnings may be calculated under section 41”.

5. The said Act is amended by adding thereto the following Part:

PART IV

1986
adjustment

138.—(1) Subject to subsections (2) and (3), on the 1st day of January, 1986, the Board shall,

- (a) adjust the dollar amounts set out in this Act and in provisions continued by section 132 by applying an indexing factor of 1.7 per cent; and
- (b) adjust average earnings by applying an indexing factor of 1.7 per cent and the Board shall make the consequential changes to the compensation payable under this Act and under provisions continued by section 132.

Exception

(2) On the 1st day of January, 1986, the amounts set out in clauses 36 (1) (c), (d), (e) and (f), as continued by section 132, are increased by 11.9 per cent.

Basis of calculation

(3) For the purposes of this Part, the amounts set out in clauses 42 (1) (a) and (b) shall be deemed to have been amended immediately before the making of the adjustment required by clause (1) (a) of this section to read as “\$11,025” and not as “\$10,500”.

Increases prospective

(4) Nothing in this section entitles a person to claim additional compensation for any period before the 1st day of January, 1986 or with respect to any award commuted or paid as a lump sum before that day.

Calculation of average earnings

(5) For the purpose of calculating the adjustment under clause (1) (b) for a person who is receiving compensation under provisions continued by section 132, the average earnings shall be the amount which produces the compensation that the person is receiving as of the 31st day of December, 1985.

Indexing factor

139.—(1) On the 1st day of January in each year, beginning in 1987, an indexing factor shall be determined, based on the percentage change in the Consumer Price Index for Canada for all items, for the twelve month period ending the 31st day of October of the previous year, as published by Statistics Canada.

Annual adjustments

(2) On the 1st day of January in each year, beginning in 1987, the Board shall,

- (a) adjust the dollar amounts set out in this Act and in provisions continued by section 132 by applying the

indexing factor to the amount as adjusted under this Part on the preceding 1st day of January; and

- (b) adjust average earnings by applying the indexing factor to the average earnings as adjusted under this Part on the preceding 1st day of January and the Board shall make consequential changes to the compensation payable under this Act and under provisions continued by section 132.

(3) For the purpose of calculating the adjustment under clause (2) (b) for a person who is receiving compensation under provisions continued by section 132, the average earnings shall be the amount which produces the compensation that the person is receiving as of the day preceding the day on which the adjustment is to be made.

Calculation
of
average
earnings

(4) Nothing in this section entitles a person to claim additional compensation for any period before the effective date of an increase as a result of subsection (2) or with respect to any award commuted or paid as a lump sum before the effective date.

Increases
prospective

140. This Part does not apply to dollar amounts set out in section 86 or 116 or to fines set out in this Act.

Exceptions

141.—(1) Where a person is receiving the minimum amount of compensation payable under subsection 42 (1), (3), (4), (5) or (6) of this Act or under section 44 as continued by section 132 and that amount is increased under this Part, no other increase applies.

Where
minimum
received

(2) Where a maximum amount under section 41 of this Act or under subsection 133 (3), (4), (5) or 43 (9) as continued by section 132 is adjusted under this Part and the adjusted amount is not divisible by 100 without remainder, the Board shall increase the adjusted amount to the next amount divisible by 100 without remainder.

Maximum
amounts
rounded

142.—(1) On the 1st day of January in each year, beginning in 1986, the Board shall redetermine the net average earnings of a worker under section 44 for payments accruing after the date of redetermination by deducting from the earnings of a worker,

Annual re-
determination
of net
average
earnings

- (a) the probable income tax payable by the worker on the worker's earnings for the current year;
- (b) the probable Canada Pension Plan premiums payable by the worker for the current year; and

- (c) the probable unemployment insurance premiums payable by the worker for the current year.
- Idem (2) The table established by subsection 44 (2) shall set out the redeterminations calculated under subsection (1).
- Commencement **6.—(1)** Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.
- Idem (2) Sections 1, 3 and 4 shall be deemed to have come into force on the 1st day of April, 1985.
- Idem (3) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **7.** The short title of this Act is the *Workers' Compensation Amendment Act, 1985*.

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 82

An Act to amend the Labour Relations Act

Mr. Mackenzie



1st Reading December 17th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill. The Bill repeals a provision of the Act dealing with professional strikebreakers and strike-related misconduct.

Bill 82**1985****An Act to amend the Labour Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

67a.—(1) In this section,

Definitions

“employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;

“legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless,

Unlawful
employment

- (a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or
- (b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless,

Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;

- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection (3) enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection (3) or who, upon gaining entry, performs work contrary to subsection (2), commits a trespass and is liable to proceedings under the *Trespass to Property Act*.

R.S.O. 1980,
c. 511

2. Section 71a of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 42, section 1, is repealed.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1985*.

Bill 83

An Act to amend the Employment Standards Act

Mr. Mackenzie



1st Reading December 17th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to require an employer to provide a leave of absence to any employee who has been elected to provincial or municipal office so that the employee may be able to carry out the duties of an elected official.

Bill 83**1985****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:*

PART XI-B**ELECTED OFFICIAL LEAVE**

39e. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under this Part by reason of that employee being an elected official.

Elected
official leave

39f.—(1) An employee who has been elected to the Legislative Assembly or to a municipal public office and who has been employed by the employer for a period of three months preceding the date of the election shall be entitled upon application therefor to a leave of absence for the purpose of carrying out his or her duties as an elected official.

When leave
to be taken

(2) A leave of absence under this Part may be for a continuous period consisting of the whole or a part of the term of office to which the person was elected or for such intermittent periods of time during the day or week as the employee may feel is necessary to fulfil his or her duties as an elected official.

Duration
of leave

(3) Where a leave of absence is for a continuous period, the employee shall give the employer two weeks notice in writing of the day upon which the employee intends to commence the leave and shall set out in this notice the estimated duration of the leave.

Notice

(4) Where a leave of absence is for intermittent periods, the employee shall give to the employer notice in writing prior

Idem

to commencing the leave of regular periods of time during the day or week that the employee intends to be on leave, but the employee is entitled to a leave of absence at other times where such leave is necessary for the employee to fulfil his or her duties as an elected official.

Preservation
of seniority

39g.—(1) An employee who intends to resume full-time employment upon ceasing to be an elected official shall so advise the employer, and, upon returning to work, the employer shall reinstate or continue the employee in his or her position or provide alternative work of a comparable nature at not less than the wages of the employee at the time the leave of absence began and without loss of seniority or benefits accrued to the expiration of the term of office other than seniority or benefits accrued during the times that the employee was on leave.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence of the employee and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his or her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and, in the absence of such a system or practice, shall reinstate the employee in accordance with subsection (1).

Employment
standards
officer
may make
order

39h. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he or she shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director, in trust, for the employee.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Employment Standards Amendment Act, 1985*.

Bill 84

An Act to amend the Employment Standards Act

Mr. Mackenzie



1st Reading December 17th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 11 (2), as amended, would read as follows:

(2) *Subclause (1) (a) (iii) does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.*

SECTION 2. Section 17, as amended, would read as follows:

17. *Except as otherwise provided in this Part, and subject to any schedule in force under the Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.*

SECTION 3. Section 18, as amended, would read as follows:

18. *An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.*

SECTION 4. Subsection 20 (3), as amended, would read as follows:

(3) *The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.*

SECTION 5. Subsection 25 (1), as amended, would read as follows:

(1) *Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.*

Bill 84**1985****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 11 (2) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by striking out “forty-four” in the fifth line and inserting in lieu thereof “forty”.

2. Section 17 of the said Act is amended by striking out “forty-eight” in the fourth line and inserting in lieu thereof “forty”.

3. Section 18 of the said Act is amended by striking out “forty-eight” in the fifth line and inserting in lieu thereof “forty”.

4. Subsection 20 (3) of the said Act is amended by striking out “forty-eight” in the fifth line and inserting in lieu thereof “forty”.

5. Subsection 25 (1) of the said Act is amended by striking out “forty-four” in the third line and in the fourth line and inserting in lieu thereof in each instance “forty”.

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Employment Standards Amendment Act, 1985*. Short title

Bill 85

An Act to provide Political Rights for Public Servants

Mr. Mackenzie



1st Reading December 17th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, Crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workers' Compensation Board and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies and other senior policy-making officials.

The deleted sections of the *Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of four to five weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of the *Crown Employees Collective Bargaining Act* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity and provides for a wider range of penalties.

Bill 85**1985****An Act to provide Political Rights for Public Servants**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“agency” means any board, agency or commission of the Crown in right of Ontario;

“public servant” means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;

“Tribunal” means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of the *Crown Employees Collective Bargaining Act*.

R.S.O. 1980,
c. 108

2.—(1) Every public servant shall be entitled to exercise Political
rights

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;
- (e) the right to be a member of a political party and to hold office in such party; and

- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection (1) are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his or her position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he or she is directly engaged in employment with the Crown;
- (d) the employee respects the oath of office and secrecy, as provided under section 10 of the *Public Service Act*.

R.S.O. 1980,

c. 41B

Partisan
work by
public
servants

3. No public servant shall be required by his or her employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer or other disciplinary action.

Leave of
absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his or her Minister or the chief officer of his or her agency, and,

- (a) may seek leave of absence without pay at any time the public servant is duly nominated by his or her party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he or she is nominated by his or her party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, the public servant shall forthwith resign his or her position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(a) ceases to be an elected political representative within five years of the resignation; and

(b) applies for reappointment to his or her former position or to another position in the service of the Crown for which the public servant is qualified, within three months of ceasing to be an elected political representative,

he or she shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned a position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his or her service for any purpose, and the service shall be deemed to be continuous for all purposes. Period
of leave
of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his or her employer. Disciplinary
action

9.—(1) In this section, “employee organization” means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. Prohibitions

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of subsection (2), a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, Tribunal

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

- (c) levy a fine; or
- (d) take such other disciplinary action as it considers appropriate.

10. Sections 12, 13, 14, 15 and 16 of the *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, are repealed.

11. Clause 1 (1) (g) of the *Crown Employees Collective Bargaining Act*, being chapter 108 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. The short title of this Act is the *Public Servants' Political Rights Act, 1985*.

Bill 86

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Cooke
(Windsor-Riverside)



1st Reading December 17th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Section 5 of the Act lists the health programs and services to be provided by boards of health.

Subparagraph ii of paragraph 4 of section 5 now reads:

ii. establishment of family planning services.

Paragraph 7 now reads:

7. Public health education, including education in the prevention and control of life-style diseases.

Bill 86**1985****An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subparagraph ii of paragraph 4 of section 5 of the *Health Protection and Promotion Act, 1983*, being chapter 10, is repealed and the following substituted therefor:

- ii. establishment of family planning services, including services especially addressed to adolescents.

(2) Paragraph 7 of the said section 5 is repealed and the following substituted therefor:

7. Public health education, including,

- i. education in the prevention and control of life-style diseases,
- ii. education in the prevention of adolescent pregnancy.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1985*. Short title

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Bill 87

Government Bill

1ST SESSION, 33RD LEGISLATURE, ONTARIO

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Bill 87

An Act to revise the Loan and Trust Corporations Act

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations



1st Reading December 18th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill revises the existing law related to loan and trust corporations. Among its principal features are the following:

1. New procedures are established for the incorporation of provincial loan and trust corporations.
2. Provincial and extra-provincial corporations will be required to adhere to essentially the same rules. Equality of treatment is obtained through the registration system.
3. All directors will be required to meet a new standard and duty of care.
4. Corporations must have at least five directors.
5. At least one-third of the board of directors must be outside directors.
6. New conflict of interest rules are introduced for directors and other restricted parties.
7. Limitations on cross-directorships are introduced.
8. The board of directors will be required to establish an audit committee and an investment committee.
9. New duties are imposed on the auditors of a corporation. Among other duties, an auditor will be required to report matters of which he or she becomes aware in the course of his or her duties that may adversely affect the corporation. The auditor will also report on conflicts of interest. Similar duties are imposed on other outside advisors such as lawyers and appraisers. The auditor will also be required to attend meetings of the audit committee.
10. The investment committee of a corporation will be required to develop prudent investment standards for the corporation and the corporation will be required to observe those standards.
11. Minimum capital requirements are increased for all corporations. The new requirements are to be phased in for existing corporations over a five year period.
12. The borrowing multiple of a corporation (ie. its power to accept deposits) will be set at between ten and twenty-five times its assets and will be subject to approval by the Superintendent. The borrowing multiple will be reviewed by the Superintendent on an annual basis.
13. Investment powers of corporations will be expanded, subject to regulatory approval and quantum limits, to permit greater activity in the fields of commercial lending, commercial leasing and consumer lending.
14. Restrictions are placed on investments by or through subsidiaries of corporations.
15. The investment powers of loan corporations will be the same as those for trust corporations. The prime distinction between the two types of corporations being that only trust corporations can engage in the business of estate and trust administration.
16. Provision is made for increased protection for persons dealing with a corporation in its capacity as a provider of estate, trust and agency services.

17. The concept of a “restricted party” is introduced. Restricted parties, in general, are those people who are, or might reasonably be presumed to be, in a position to influence the decision making process in a corporation.
18. Rules against self-dealing are broadened. Self-dealing will include investments, loans and other transactions that involve restricted parties.
19. A market value test, for purposes of valuation, is introduced. A new test is also introduced for lending value for the purposes of mortgage lending.
20. Depositors will be entitled to obtain the annual financial statements of a corporation.
21. The regulatory system is strengthened. The Superintendent (formerly the Registrar) and the Director (a new officer) will have powers to order compliance with the Act. The Superintendent will also have the power to enter compliance programs. The Lieutenant Governor in Council will retain the present powers to seize a corporation.
22. New civil remedies such as tracing or recovery of assets through derivative actions and oppression remedies similar to those in the *Business Corporations Act, 1982* are provided.
23. There will be a compulsory review of the Act by the Legislature not later than 1997.

Bill 87**1985**

**An Act to revise the
Loan and Trust Corporations Act**

CONTENTS

| Part | | Sections |
|------|---|----------|
| I | Interpretation and Application | 1-4 |
| II | Incorporation and Instrument of Incorporation | 5-13 |
| III | Winding Up, Dissolution and Merger | 14-29 |
| IV | Registration | 30-39 |
| V | Shares and Shareholders | 40-86 |
| VI | Directors and Officers | 87-111 |
| VII | Auditors and Financial Statements | 112-124 |
| VIII | Books, Records and Returns | 125-138 |
| IX | Conflict of Interest | 139-151 |
| X | Business and Investments | 152-174 |
| XI | Administration | 175-189 |
| XII | Enforcement and Civil Remedies | 190-210 |
| XIII | Offences and Penalties | 211-215 |
| XIV | Miscellaneous and Regulations | 216-223 |
| XV | Amendments, Repeals, Commencement, Short title | 224-228 |

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION AND APPLICATION

1. In this Act,

Definitions

“accountant” means a person who is a member of The Canadian Institute of Chartered Accountants and includes a partnership of which the partners are members of The Canadian Institute of Chartered Accountants;

“affiliate” means a body corporate that is an affiliate within the meaning of subsection 2 (1);

1980-81,
c. 40 (Can.) “bank” means a bank named in Schedule A or B to the *Bank Act* (Canada);

“body corporate” means any body corporate with or without share capital and wherever or however incorporated;

“branch” means an office of a corporation where it offers services to the public or where it provides fiduciary services;

“capital base” means the shareholders’ equity of a corporation calculated in the prescribed manner;

“common trust fund” means a fund maintained by a trust corporation in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment;

“company” means a body corporate that is not a loan corporation, a trust corporation or a municipality or any local board thereof;

“corporation” means a loan corporation or a trust corporation whether incorporated in or outside of Ontario;

“deposit”, in relation to a corporation, means money received by it under section 153;

“depositor” means a person who has a deposit in a corporation;

“Director” means the Director appointed under subsection 175 (2);

“extra-provincial corporation” means a corporation that was incorporated under the laws of Canada or of any province, other than Ontario, or of any territory of Canada;

“financial statement” means a statement referred to in subsection 119 (1);

“improved real estate” means real estate,

(a) on which there exists a building used or capable of being used for residential, commercial, industrial, educational, professional, institutional, religious, charitable or recreational purposes,

- (b) on which a building capable of being used for residential, commercial, industrial, professional, institutional, educational, religious, charitable or recreational purposes is being or is about to be constructed,
- (c) on which *bona fide* farming operations are being conducted, or
- (d) vacant land within a municipality that is restricted by law in its use to commercial, industrial or residential purposes by zoning or otherwise;

“instrument of incorporation” means the special Act, charter, letters patent or other document incorporating or amalgamating a corporation and includes all amendments thereto;

“law of Ontario” includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;

“lending value”, in relation to real estate, means the market value of the real estate reduced by such amounts as are attributable to contingencies or assumptions that have affected the market value of the real estate but which may not occur, multiplied by the lesser of,

- (a) 75 per cent, or
- (b) such percentage less than 75 per cent as the corporation has determined in accordance with its prudent investment standards to be appropriate in the circumstances;

“loan corporation” means a body corporate incorporated or operated for the purpose of borrowing money from the public by receiving deposits and lending or investing such money but does not include a bank, an insurance corporation, a trust corporation, a credit union or caisse populaire incorporated or licensed under the *Credit Unions and Caisses Populaires Act* or an issuer registered under the *Investment Contracts Act*;

R.S.O. 1980,
cc. 102, 221

“market value” means the amount that might be expected to be realized in an arm’s length sale in the open market by a willing seller to a willing buyer;

“Minister” means the Minister of Consumer and Commercial Relations or other such member of the Executive Council to whom the administration of this Act may be assigned;

“Ministry” means the Ministry of the Minister;

“mortgage” includes a charge or hypothec;

“offering corporation” means a corporation that is offering its securities to the public within the meaning of subsection 2 (5) and that is not the subject of an order of the Ontario Securities Commission deeming it to have ceased to be offering its securities to the public;

“officer” means the chairman and any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager and any other person designated an officer by by-law or by resolution of the directors and any other individual who performs functions for the corporation similar to those normally performed by an individual occupying any such office;

“principal place of business” means,

- (a) in the case of a provincial corporation, the place in Ontario designated in its instrument of incorporation as its head office or as its principal place of business, and
- (b) in the case of a registered extra-provincial corporation, the place in Ontario designated in its registration as its principal place of business;

“prescribed” means prescribed by the regulations;

“provincial corporation” means a corporation incorporated under the law of Ontario;

“real estate” includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein but does not include hydrocarbons, minerals or aggregates in or under the ground;

“registered corporation” means a corporation registered under this Act;

“registered form”, when applied to a security, means a security that,

- (a) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
- (b) bears a statement that it is in registered form;

“regulations” means the regulations made under this Act;

“resident Canadian” means an individual who is,

- (a) a Canadian citizen ordinarily resident in Canada,
- (b) a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
- (c) a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;

1976-77,
c. 52 (Can.)

“restricted party” means a person who with respect to a corporation is,

- (a) an officer or director of the corporation,
- (b) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of the corporation,
- (c) a beneficial holder of 10 per cent or more of any class of non-voting shares of the corporation,
- (d) a beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares of an affiliate of the corporation,
- (e) an affiliate of the corporation,
- (f) an employee or auditor of the corporation,
- (g) a director or officer of a body corporate described in clause (b) or (c),
- (h) a spouse or child of an individual described in clause (a), (b), (c) or (d),

- (i) any relative of an individual described in clause (a), (b), (c) or (d) or his or her spouse who has the same home as such individual or spouse,
- (j) a body corporate in which a person described in clause (a), (b), (c), (f), (g) or (h) is the beneficial holder, directly or indirectly, of 10 per cent or more of any class of voting shares,
- (k) a person designated under section 139 as a restricted party;

“securities register” means the register referred to in subsection 126 (1);

“security” means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation and includes a warrant but does not include a deposit or any instrument evidencing a deposit in a corporation;

“special resolution” means a resolution that is,

- (a) submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast, or
- (b) consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or the shareholder’s agent authorized in writing;

“spouse” means the person to whom a person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage;

“subordinated note” means a note issued under section 156;

“Superintendent” means the Superintendent of Deposit Institutions appointed under this Act;

“total assets” means the shareholders’ equity and deposits of a corporation, calculated in the prescribed manner;

“trust corporation” means a body corporate incorporated or operated for the purpose of offering its services to the public to act as trustee, bailee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor’s estate or committee of a mentally incompetent person’s estate and

for the purpose of receiving deposits from the public and of lending or investing such deposits;

“voting share” means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing.

2.—(1) For the purposes of this Act,

Deemed affiliation

- (a) a body corporate shall be deemed to be affiliated with another body corporate if one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person; and
- (b) the affiliates of every body corporate shall be deemed to be affiliated with all other bodies corporate with which the body corporate is affiliated.

(2) For the purposes of this Act, except sections 59 to 61, a body corporate shall be deemed to be controlled by a person if,

- (a) securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are held other than by way of security only by or for the benefit of that person; and
- (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate.

(3) For the purposes of this Act, a body corporate shall be deemed to be the holding body corporate of all of its subsidiaries.

Deemed holding body corporate

(4) For the purposes of this Act, a body corporate shall be deemed to be the subsidiary of another body corporate if it is controlled by that other body corporate.

Deemed subsidiary

(5) For the purposes of this Act, where a person or group of persons owns beneficially, directly or indirectly, shares of a body corporate, that person or group of persons shall be deemed to own beneficially that proportion of shares of every other body corporate that is owned beneficially, directly or indirectly, by the first-mentioned body corporate, that is equal to the proportion of shares of the first-mentioned body cor-

“Down-stream” investments

Offering
securities
to public

R.S.O.1980,
c. 466

porate that is owned beneficially, directly or indirectly, by that person or group of persons.

(6) For the purposes of this Act, a body corporate is offering its securities to the public only where,

- (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Ontario Securities Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a body corporate that has fewer than fifteen security holders, the Ontario Securities Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as it may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

Related
persons

(7) For the purposes of sections 62 to 69 and section 166, a person shall be deemed to be related to,

- (a) every company or corporation of which the person beneficially owns, directly or indirectly, voting shares carrying more than 10 per cent of the voting rights attached to all voting securities of the company or corporation for the time being outstanding;
- (b) every partner of the person;
- (c) every trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity; or
- (d) any spouse or child of the person or any relative of the person or the spouse who has the same home as the person.

3.—(1) This Act applies to all corporations unless specifically limited to provincial corporations. Application of Act

(2) Where there is a conflict between a provision of the instrument of incorporation of a provincial corporation or of any special Act of Ontario in relation to any corporation and a provision of this Act or the regulations, the provision of this Act or the regulations, as the case may be, prevails. Idem

4. This Act does not apply to a body corporate that is authorized, constituted or operated for the purpose of lending money on the security of real estate or for the purpose of investing money in mortgages, where the body corporate borrows only by way of, Non-application of Act

- (a) loans from banks in the usual course of business; or
- (b) the issue of debentures, notes or like obligations of an amount not less than \$100,000 each to any one person on the person's account, whereby the body corporate is not obligated or cannot by demand of the holder be obligated to repay the money secured by the debenture, note or obligation within five years from the date of its issue.

PART II

INCORPORATION AND INSTRUMENT OF INCORPORATION

5. The Lieutenant Governor in Council may incorporate a loan corporation by the issue of letters patent upon the application of any one or more persons. Incorporation of a loan corporation

6.—(1) An application for the issue of letters patent to incorporate a loan corporation shall follow the prescribed form and shall be filed with the Superintendent together with, Application for incorporation

- (a) evidence showing that at least \$5,000,000 of common shares has been subscribed for in good faith;
- (b) an application to be registered as a loan corporation; and
- (c) such other information, material and evidence as the form may specify.

(2) The Superintendent, upon the filing of an application for the issue of letters patent to incorporate a loan corporation, Notices, additional information

- Restriction
on
issue of
letters
patent
- (a) shall require notice of the application and notice of the application for registration, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette* and in a newspaper having general circulation in the locality where the principal place of business is to be located; and
 - (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

7. Letters patent for the incorporation of a loan corporation shall not be issued unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) in the locality where the principal place of business of the proposed corporation is to be located, there exists a public benefit and advantage for establishing a loan corporation or an additional loan corporation;
- (b) the proposed management is fit, both as to character and as to competence, to manage a loan corporation;
- (c) each person subscribing for 10 per cent or more of any class of shares of the proposed corporation can demonstrate the adequacy of their financial resources;
- (d) each proposed director is fit, both as to character and as to competence, to be a director of a loan corporation;
- (e) the proposed plan of operations is feasible; and
- (f) the proposed corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for incorporation.

8. The letters patent of a loan corporation shall set out,

- (a) the name of the corporation;
- (b) the municipality or geographic township in Ontario and the address including street name and number,

if any, where, the principal place of business is to be located;

- (c) the classes and any maximum number of shares that the corporation is authorized to issue and the rights, privileges, restrictions and conditions attaching to each class of shares; and
- (d) the full name, address of residence, citizenship and occupation of,
 - (i) each of the directors of the corporation,
 - (ii) every person who subscribed for 10 per cent or more of any class of shares of the corporation, and
 - (iii) each of the applicants.

9. A provincial loan corporation comes into existence on Day of incorporation the day set out in its letters patent.

10.—(1) On the application of a provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation, Supple-
mentary
letters patent

- (a) to change its name;
- (b) in the case of a provincial loan corporation, to continue it as a trust corporation;
- (c) in the case of a provincial trust corporation, to continue it as a loan corporation; or
- (d) to change the principal place of business of a corporation.

(2) On the application of the corporations involved, the Lieutenant Governor in Council may issue letters patent to amalgamate the corporations and continue them as one provincial corporation. Idem

(3) On the application of any provincial corporation, the Lieutenant Governor in Council may issue supplementary letters patent to amend the instrument of incorporation of the corporation to, Idem

- (a) add, change or remove any maximum number of shares that the corporation is authorized to issue;

- (b) create new classes of shares;
- (c) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrue dividends, in respect of all or any of its shares, whether issued or unissued;
- (d) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (e) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (f) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (g) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series; and
- (h) revoke, diminish or enlarge any authority conferred under clauses (f) and (g).

Special
resolution

(4) No application shall be made under subsection (1) or (3) unless it has been authorized by a special resolution of the provincial corporation.

Application

(5) An application for the issue of supplementary letters patent shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify and, in the case of an application under clause (1) (b), evidence that,

- (a) the stated capital account or accounts of the corporation is or are equal to or exceed \$10,000,000 and the capital base of the corporation equals or exceeds \$10,000,000; or
- (b) one or more responsible applicants has subscribed in good faith for shares of the corporation that, when issued and added to the stated capital account

and the capital base, will in both cases equal or exceed \$10,000,000.

(6) An application for the issue of supplementary letters patent under clause (1) (b) or (c) shall be accompanied by an application for registration as a trust corporation or loan corporation, as the case may be. Idem

(7) The Superintendent, upon the filing of an application for supplementary letters patent under subsection (1), Notice,
additional
information

- (a) shall require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business in Ontario of the corporation is located; and
- (b) may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application.

(8) Supplementary letters patent shall not be issued, Rejection of
application

- (a) to continue a provincial loan corporation as a trust corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
 - (i) in the locality where the principal place of business of the corporation is to be located there exists a public benefit and advantage for the trust corporation or for an additional trust corporation,
 - (ii) the management of the applicant is fit, both as to character and as to competence, to manage a trust corporation,
 - (iii) each person subscribing for 10 per cent or more of any class of shares of the corporation or who holds, or upon the issue of the supplementary letters patent will hold, 10 per cent or more of any class of its shares can demonstrate the adequacy of their financial resources,

(iv) each director of the applicant is fit, both as to character and as to competence, to be a director of a trust corporation;

(v) the proposed plan of operations as a trust corporation is feasible, and

(vi) the corporation intends to offer to the public, initially or within a reasonable time after incorporation, the services set out in the application for supplementary letters patent;

(b) to continue a provincial trust corporation as a provincial loan corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that arrangements have been made to transfer to another registered trust corporation the business in relation to which the provincial trust corporation acted as a fiduciary and such arrangements are adequate to protect the persons in relation to which the provincial trust corporation acted in a fiduciary capacity;

(c) to change the principal place of business of a provincial corporation unless it is shown to the satisfaction of the Lieutenant Governor in Council that in the locality where the proposed principal place of business is to be located there exists a public benefit and advantage for locating the principal place of business in the proposed location and the proposed plan of operations in the new location is feasible.

Deposits

(9) Clause (8) (b) does not apply so as to require a trust corporation that has applied to be continued as a loan corporation to transfer money received by it as deposits.

Idem

(10) Where supplementary letters patent have been issued to continue a loan corporation as a trust corporation,

(a) deposits received by the loan corporation under clause 153 (1) (a) shall be deemed to be deposits received under clause 153 (2) (a); and

(b) deposits received by the loan corporation under clause 153 (1) (b) shall be deemed to be deposits received under clause 153 (2) (b).

Idem

(11) Where supplementary letters patent have been issued to continue a trust corporation as a loan corporation,

- (a) deposits received by the trust corporation under clause 153 (2) (a) shall be deemed to be deposits received under clause 153 (1) (a); and
- (b) deposits received by the trust corporation under clause 153 (2) (b) shall be deemed to be deposits received under clause 153 (1) (b).

11.—(1) Subject to subsection (2), letters patent or supplementary letters patent shall not be issued to a corporation that has a name,^{Names}

- (a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;
- (b) that is the same or similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,
 - (D) partnership,
 - (E) sole proprietorship, or
 - (F) individual,

whether in existence or not, or

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,
- if the use of that name would be likely to deceive; or
- (c) that in the case of a trust corporation does not include,
 - (i) “trust corporation”,
 - (ii) “trust company”,

(iii) "trustco", or

(iv) "trust" together with a designation such as "limited" or "incorporated".

Idem (2) Notwithstanding clause (1) (b), a corporation may have a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

Change of name if objectionable (3) Where, through inadvertence or otherwise, a provincial corporation has obtained a name contrary to this section, the Lieutenant Governor in Council, on the recommendation of the Superintendent, may issue supplementary letters patent changing the name of the corporation to a name specified in the supplementary letters patent.

Hearing (4) Before making a recommendation under subsection (3), the Superintendent shall give the corporation an opportunity to be heard by him or her.

Decision is final **12.**—(1) The decision of the Lieutenant Governor in Council to approve or reject an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 144 is final and not subject to appeal, but nothing in this subsection prevents an applicant from making a new application.

Notice (2) Where the Lieutenant Governor in Council approves or rejects an application for letters patent or supplementary letters patent, for an order of revival or for consent under section 144, the Superintendent shall forthwith notify the applicant in writing.

Powers of corporation **13.** Subject to this Act and any terms, conditions and restrictions imposed on its registration, a provincial corporation,

(a) has the capacity and the rights, powers and privileges of a natural person; and

(b) has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit.

PART III

WINDING UP, DISSOLUTION AND MERGER

14. Except where Part VI of the *Corporations Act* is inconsistent with this Act, that Part applies to the winding up of a provincial corporation, substituting the word "Superintendent" for the word "Minister".

15.—(1) Where a provincial corporation fails to go into *bona fide* operation within two years of the date of incorporation or having done so it ceases *bona fide* operation for a period of two consecutive years, the Lieutenant Governor in Council, on the recommendation of the Superintendent and upon such terms and conditions as the Lieutenant Governor in Council considers appropriate, may order the cancellation of the instrument of incorporation of the corporation and it is dissolved on the date fixed in the order.

(2) Before making a recommendation under subsection (1), the Superintendent shall give the corporation an opportunity to be heard by him or her.

(3) Where a provincial corporation has been dissolved under subsection (1), the Lieutenant Governor in Council may revive the corporation by order, upon the application therefor of any interested person.

(4) Upon the date set out in an order under subsection (3), the corporation, subject to such terms and conditions as may be set out in the order, is revived and, subject to any rights acquired by any person after the dissolution, the corporation is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

16.—(1) Notwithstanding the dissolution of a provincial corporation under section 15,

- (a) every proceeding commenced in or before any court or tribunal by or against the corporation, its officers or directors before its dissolution may be continued as if the corporation had not been dissolved;
- (b) a proceeding may be brought in or before any court or tribunal against the corporation, its officers or directors within five years after its dissolution as if the corporation had not been dissolved; and

Winding up
R.S.O.1980,
c. 95

Cancellation
for non-use

Hearing

Revival

Issue

Actions after
dissolution

(c) all real or personal property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.

Service after dissolution

(2) For the purposes of this section, the service of any process on a provincial corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the public file referred to in section 138 as being a director or officer of the corporation before the dissolution.

Idem

(3) Where any proceeding has been brought against a provincial trust corporation after its dissolution, notice of the commencement of the proceeding, together with the originating process by which the proceeding was commenced, shall be served upon the Public Trustee.

Liability of shareholders to creditors

17.—(1) Notwithstanding the dissolution of a provincial corporation under section 15, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 16 to the extent of the amount received by that shareholder upon the distribution, and a proceeding to enforce such liability may be commenced within five years after the date of the dissolution of the corporation.

Party action

(2) The court hearing an action referred to in subsection (1) may order the action to be brought against the persons who were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes a claim, the court may refer the proceedings to a referee or other officer of the court.

Idem

(3) Where a reference is made under subsection (2), the referee or other officer may,

- (a) add as a party to the proceedings before him or her each person who was a shareholder found by the plaintiff;
- (b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and
- (c) direct payment of the amounts so determined.

Definition

(4) In this section, "shareholder" includes the heirs and legal representatives of a shareholder.

18.—(1) All property of a provincial corporation that has not been disposed of at the date of its dissolution whether under this or any other Act is forfeit to the Crown.

(2) All property that immediately before the dissolution of a provincial trust corporation was being held in trust by it shall be delivered forthwith by the persons who were its officers and directors before its dissolution to the Public Trustee.

(3) Where property is not delivered as required by subsection (2), the Public Trustee may do such things as may be necessary to obtain the property.

(4) All property received by the Public Trustee under subsections (2) and (3) shall be held in trust by the Public Trustee for the beneficiaries of the trusts.

(5) Where an order is made in a proceeding referred to in section 16 and the order affects property forfeited to the Crown under subsection (1), the property shall be available to satisfy the order.

19.—(1) Two or more corporations, of which at least one is a provincial corporation, may amalgamate and continue as one provincial corporation or, subject to the law of the receiving jurisdiction, as one extra-provincial corporation.

(2) A provincial corporation may sell all of its assets to any corporation in Canada if the purchasing corporation assumes all of the liabilities of the provincial corporation.

(3) A provincial corporation may purchase all of the assets of any corporation in Canada if the provincial corporation assumes all of the liabilities of the vendor corporation.

(4) Subsection (1) does not apply to an extra-provincial corporation unless under the law of the jurisdiction in which it is incorporated it has the power to amalgamate with a provincial corporation.

(5) Part XV of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

20.—(1) Where corporations propose to amalgamate or purchase or sell assets under section 19, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation or purchase and sale.

Forfeiture of
undisposed
property

Trust
property

Idem

Idem

Property
available to
satisfy order
of court or
tribunal

Amalga-
mation

Asset sale

Asset
purchase

Proviso re:
amalgamation

Compulsory
acquisitions
1982, c. 4

Mandatory
agreement

When
agreement
effective

(2) No agreement for the amalgamation of corporations or the purchase or sale of the assets of a corporation shall take effect until all approvals required by this Part have been given.

Contents of
agreement,
amalgamation

(3) Where corporations propose to amalgamate the agreement referred to in subsection (1), shall set out,

- (a) the proposed name of the amalgamated corporation;
- (b) the municipality or geographic township in Ontario and the address, including street name and number, if any, where the principal place of business of the amalgamated corporation is to be located;
- (c) the classes of shares that the amalgamated corporation may issue and the rights and privileges, restrictions and conditions attaching to each class of share;
- (d) the full name, address of residence, citizenship and occupation,
 - (i) of each of the first directors of the amalgamated corporation,
 - (ii) of every person who will hold immediately upon the amalgamation 10 per cent or more of any class of the shares of the amalgamated corporation;
- (e) the manner of converting the shares of the amalgamating corporations into shares of the amalgamated corporation; and
- (f) the proposed effective date of the amalgamation.

Submission
of agreement

(4) An agreement to amalgamate corporations or to purchase or sell the assets of a corporation to another corporation shall be submitted to the shareholders of each corporation for their approval at a meeting thereof to be held separately for the purpose of taking the agreement into consideration.

Submission
of offer

(5) Where an offer has been made to a corporation with respect to the purchase of all of its assets and no agreement is reached, the offer, at the request of the corporation making the offer, shall be submitted to the shareholders of each corporation for their approval at a meeting thereof to be held separately for the purpose of taking the offer into consideration.

(6) Each corporation required by subsection (4) or (5) to hold a meeting shall deliver notice of the meeting and a copy of the agreement or offer to the Superintendent at least twenty-one days before the meeting.

Notice of
meeting

21. At each of the meetings required by subsection 20 (4) or (5), the agreement or offer shall be considered, and if at each meeting the holders of at least 50 per cent of the issued shares of the corporation for the time being carrying voting rights are present in person or represented by proxy and the agreement or offer is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting, that fact shall be certified upon the agreement or offer by the secretary of each corporation.

Proceedings
to approve
agreement

22.—(1) The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the approval of the agreement or offer by the shareholders of the purchasing corporation if the Lieutenant Governor in Council is satisfied that the shareholders, after due notice thereof, have approved a general resolution or by-law authorizing the purchase of the assets of any corporation upon the basis and within the limits specified in such agreement or offer.

Dispensing
with approval

(2) An offer to which subsection 20 (5) applies shall be deemed for all purposes to be an agreement when it has been certified by the secretary of the vendor corporation under section 21 and it has either been certified by the secretary of the purchasing corporation as required by that section or the approval of the offer by the shareholders of the purchasing corporation has been dispensed with under subsection (1).

When offer
becomes
agreement

23.—(1) If the agreement is approved and certified in accordance with section 21 by the shareholders of each of the corporations or, in the case provided for in section 22, at the meeting of shareholders of the vendor corporation, the agreement, with the certificates or certificate thereon, shall be filed with the Superintendent and the Superintendent shall submit the agreement to the Lieutenant Governor in Council for approval.

Submission
to
Lieutenant
Governor in
Council

(2) In the case of an amalgamation, an agreement filed under subsection (1) shall be accompanied by an application for initial registration under subsection 31 (1) for the amalgamated corporation and, if the amalgamated corporation will be a provincial corporation, by an application for supplementary letters patent.

Idem

Notice,
information

(3) The Superintendent, upon the filing of an agreement and before submitting the agreement to the Lieutenant Governor in Council,

- (a) shall require notice of the agreement, containing such information as the Superintendent may require, to be published by the parties to the agreement in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and in the case of an amalgamation, in the locality where the principal place of business of the amalgamated corporation is to be located; and
- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided by or under any other section of this Act.

Refusal of
approval

(4) The Lieutenant Governor in Council shall refuse approval of the agreement unless it is shown to the satisfaction of the Lieutenant Governor in Council that,

- (a) in the case of an amalgamation,
 - (i) there exists a public benefit and advantage for the amalgamation of the corporations,
 - (ii) the proposed management is fit, both as to character and as to competence, to manage the amalgamated corporation,
 - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the amalgamated corporation immediately after the amalgamation can demonstrate the adequacy of their financial resources,
 - (iv) each proposed first director is fit as to character and as to competence to be a director of the amalgamated corporation,
 - (v) the proposed plan of operations for the amalgamated corporation is feasible, and
 - (vi) the amalgamated corporation intends to offer to the public, initially or within a reasonable

time after the amalgamation, the services set out in the amalgamation agreement;

- (b) in the case of a purchase and sale of assets,
 - (i) there exists a public benefit and advantage if the purchase and sale is completed,
 - (ii) the proposed plan of operations for the purchasing corporation upon the closing of the purchase agreement is feasible;
- (c) in the case where one of the parties to the agreement is a trust corporation and the amalgamated or purchasing corporation is a loan corporation, the arrangements referred to in subsection 29 (2) are adequate to protect the persons in relation to which the trust corporation, before the approval of the agreement, is acting in a fiduciary capacity; and
- (d) where the amalgamated corporation is a loan corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$5,000,000 or, where the amalgamated corporation is a trust corporation, the amalgamated corporation immediately after the amalgamation will have a capital base of at least \$10,000,000.

24.—(1) In this section, “Superintendent’s certificate” Definition means a certificate issued under subsection (2).

(2) Where the Lieutenant Governor in Council approves an agreement submitted under subsection 23 (1), the Superintendent shall issue a certificate certifying, Superintendent’s certificate

- (a) that the approval of the Lieutenant Governor in Council has been given and the date of the approval;
- (b) in the case of a purchase or sale of assets, the name of each corporation that is a party to the transaction and whether the party is a vendor or a purchaser;
- (c) in the case of an amalgamation, the names of the corporations that are amalgamating, the name of the amalgamated corporation and the date upon which the amalgamation takes effect; and

(d) such other matters, if any, as in the opinion of the Lieutenant Governor in Council are necessary or desirable in the public interest.

Effect as evidence

(3) A Superintendent's certificate is for all purposes *prima facie* proof of all matters set out therein.

Notice

(4) Notice of the issue of a Superintendent's certificate shall be published in *The Ontario Gazette* by the Superintendent.

Certificate of Superintendent

(5) Any document signed by or purportedly signed by the Superintendent, certifying the document to be or to contain a true copy of the Superintendent's certificate or of any instrument referred to in the certificate, may be registered in any land registry office upon it being tendered for registration accompanied by the proper fee, if any.

Registration

(6) It is sufficient to register a certified copy of the Superintendent's certificate in each land registry office in which instruments affecting land or interests in land, included or intended to be included in the amalgamation or purchase and sale, are registered.

Security interest
R.S.O. 1980,
c. 375

(7) For the purposes of the *Personal Property Security Act*, it is sufficient, in order to show the vesting in the continuing corporation of any interest in personal property that constitutes a security interest within the meaning of that Act and for which one of the amalgamating corporations is shown as a secured party in any financing statement registered under that Act, for a financing change statement to be registered in respect of the vesting as if the interest had been assigned.

Assets of vendor corporation vest in purchasing corporation

25.—(1) In the case of a purchase of the assets of a corporation that has been approved by the Lieutenant Governor in Council, the assets of the vendor corporation become vested in the purchasing corporation on and from the date of the approval without any further conveyance, and the purchasing corporation thereupon becomes and is responsible for the liabilities of the vendor corporation.

Disposal of assets by purchasing corporation

(2) In dealing with the assets of the vendor corporation, it is sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant Governor in Council thereto, with the date of assent.

Rights of creditors

26.—(1) A sale of the assets of a corporation does not affect the rights of any creditor of the vendor corporation.

(2) An agreement made or purporting to be made under this Act to purchase the assets of a corporation shall be deemed to contain a covenant and agreement with each creditor of the vendor corporation that the purchasing corporation will pay to the creditor the amount of the vendor corporation's indebtedness to the creditor at such time and place as the amount would have been payable had the agreement to purchase not been made.

Priority of contract between purchasing corporation and each creditor of vendor corporation

(3) Where the Lieutenant Governor in Council approves an agreement for the sale of the assets of a corporation, the vendor corporation is, from the date of the approval, dissolved, except so far as is necessary to give full effect to the agreement.

Dissolution of vendor corporation

27.—(1) In the case of an amalgamation,

Amalgamation

- (a) if the amalgamated corporation is a provincial corporation, the parties to the amalgamation, from the date set out in the letters patent of amalgamation, shall continue as one provincial corporation under the name stated in the letters patent;
- (b) if the amalgamated corporation is an extra-provincial corporation, every provincial corporation that is a party to the agreement is, from the effective date of the amalgamation under the laws of the jurisdiction under which the continuing corporation is incorporated, amalgamated with the other parties to the agreement and it shall continue with them as one corporation;
- (c) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal liabilities, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (d) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (e) the letters patent of amalgamation are deemed to be the instrument of incorporation of the amalgamated corporation; and
- (f) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil proceeding commenced by

or against an amalgamating corporation before the amalgamation has become effective.

Continuation
in another
jurisdiction

(2) Where the amalgamating corporations are to continue as one extra-provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction specified in the amalgamation agreement for an instrument amalgamating and continuing them as one corporation under the laws of that jurisdiction and, incidental to the application, every provincial corporation that is a party to the agreement may apply to the proper officer of that jurisdiction for an instrument continuing it as if it had been incorporated under the laws of that jurisdiction.

Acquisition
of assets or
amalgamation
by purchase
of shares

28.—(1) In addition to its powers under section 19, for the purpose of either acquiring the assets of any other corporation in Canada or amalgamating with any such corporation under this Part, a corporation may purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

1. No such purchase shall be made except with the prior approval of the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council shall deny approval unless it is shown to the satisfaction of the Lieutenant Governor in Council that,
 - i. there exists a public benefit and advantage for the purchase,
 - ii. the management of the purchasing corporation is fit both as to character and as to competence, to manage the corporation as it will exist after it completes the purchase of the assets or the amalgamation,
 - iii. each person who holds 10 per cent or more of any class of shares of the purchasing corporation can demonstrate the adequacy of their financial resources,
 - iv. each director is fit as to character and as to competence to be a director of the corporation as it will exist after it completes the purchase of the assets or the amalgamation, and

- v. the proposed plan of operations for the corporation as it will exist after it completes the purchase of the assets or the amalgamation is feasible.
3. The Lieutenant Governor in Council may approve the purchase where,
 - i. an offer to purchase shares has been accepted,
 - A. in writing by the holders of at least 67 per cent of the outstanding shares of such other corporation, or
 - B. by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding shares of each class of such corporation at a general meeting of the shareholders thereof, and
 - ii. the offer to purchase has been submitted to a general meeting of the shareholders of the purchasing corporation at which the holders of at least 50 per cent of the issued shares of such corporation for the time being carrying voting rights are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.
4. A corporation may purchase shares under this section notwithstanding any other provision of this Act so long as the provisions of this section are satisfied.
5. Where a corporation has purchased shares under this section, it shall within a period of two years after the purchase has been approved by the Lieutenant Governor in Council proceed under this Part either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or amalgamate with the other corporation, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time.
6. After the expiration of the period referred to in paragraph 5 and every extension thereof, the Super-

intendent may direct the corporation to dispose of the shares.

Consideration
for shares (2) The consideration for the shares acquired under the authority of this section may be cash or voting shares of the purchasing corporation or may be partly cash and partly voting shares of the purchasing corporation or may be such other consideration as may be agreed upon.

No power to
purchase own
shares (3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.

Application (4) A corporation purchasing shares under this section shall file an application for the approval required by subsection (1) with the Superintendent.

Notice,
information (5) The Superintendent, upon the filing of an application for the approval required by subsection (1),

- (a) shall require notice of the purchase, containing such information as the Superintendent may require, to be published by the applicant in *The Ontario Gazette*, and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and, in the case of an amalgamation, in the locality where the principal place of business in Ontario of the continuing corporation is to be located; and
- (b) may require the parties to the agreement to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided by or under any other provision of this Act.

Definition **29.—(1)** In this section, “acquiring corporation” means,

- (a) the amalgamated corporation resulting from the amalgamation of one or more corporations; or
- (b) a corporation that purchases the assets of another corporation,

under this Part and for the purposes of subsections (5), (6) and (7) includes a corporation that is a transferee of the business in relation to which a trust corporation that is a party to an agreement of amalgamation or purchase and sale of assets acted as a fiduciary.

(2) Before making the filing with the Superintendent required by subsection 23 (1), where one or more of the corporations that is a party to the amalgamation or purchase of assets is a trust corporation and the acquiring corporation is to be a loan corporation, the parties to the transaction shall make such arrangements as may be necessary to transfer to another trust corporation the business in relation to which the trust corporation acted as a fiduciary but this subsection does not apply so as to require a trust corporation to transfer to another trust corporation money received by it as deposits.

Transfer of
estate, trust
and agency
business

(3) Where the acquiring corporation is,

Deposits

- (a) a trust corporation and one of the parties to the amalgamation or purchase of assets is a loan corporation,
 - (i) deposits received by the loan corporation under clause 153 (1) (a) shall be deemed to be deposits received under clause 153 (2) (a), and
 - (ii) deposits received by the loan corporation under clause 153 (1) (b) shall be deemed to be deposits received under clause 153 (2) (b); and
- (b) a loan corporation and one of the parties to the amalgamation or purchase of assets is a trust corporation,
 - (i) deposits received by the trust corporation under clause 153 (2) (a) shall be deemed to be deposits received under clause 153 (1) (a), and
 - (ii) deposits received by the trust corporation under clause 153 (2) (b) shall be deemed to be deposits received under clause 153 (1) (b).

(4) On the approval of the Lieutenant Governor in Council as provided in section 23 to the amalgamation or purchase and sale of assets,

- (a) in a case to which subsection (2) applies, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the transferor of the business in relation to which the trust corporation that was a party to the amalgamation or purchase and sale is making

Trust to
pass

the transfer are vested in and bind and may be enforced against the transferee as fully and effectually as if it had been originally named as the fiduciary in the instrument; and

- (b) in any other case, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the acquiring corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Subject-matter of trust to vest in acquiring corporation

(5) Wherever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the vendor corporation or of any of the amalgamating corporations as fiduciary, the name of the acquiring corporation shall be deemed to be substituted for the name of the vendor or amalgamating corporation, and such instrument vests the subject-matter therein described in the acquiring corporation according to the tenor of, and at the time indicated or intended by the instrument, and the acquiring corporation shall be deemed to stand in the place and stead of the vendor or amalgamating corporation.

References in will or codicil

(6) Where the name of the vendor corporation or of any of the amalgamating corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the acquiring corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the vendor or amalgamating corporation.

Duties not completed

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or litigation guardian issued or made by any court in Ontario to the vendor corporation or to any of the amalgamated corporations, from which at the date of such assent it had not been finally discharged, the acquiring corporations shall *ipso facto* be substituted therefor.

PART IV

REGISTRATION

Registration

30.—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to

be registered and may be acceptable for registration, and of granting registration accordingly, is upon the Superintendent.

(2) The registers known as the "Loan Companies' Register" and the "Trust Companies' Register" are hereby continued as the "Loan Corporations' Register" and "Trust Corporations' Register", respectively.

(3) The Superintendent shall keep the registers and shall cause to be recorded,

- (a) in the Loan Corporations' Register, the name of each loan corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed; and
- (b) in the Trust Corporations' Register, the name of each trust corporation that has been granted registration together with such terms, conditions and restrictions as may be set out by the Superintendent and such other particulars as may be prescribed.

(4) A corporation may be registered in either the Loan ^{Idem} Corporations' Register or the Trust Corporations' Register.

(5) The Superintendent shall note in the appropriate register,

- (a) all terms, conditions and restrictions imposed on the registration of a corporation;
- (b) the fact that the registration of a corporation has been revoked or has not been renewed;
- (c) the fact that a registered loan corporation has been continued as a registered trust corporation or *vice versa*.

31.—(1) A corporation duly constituted or incorporated under the laws of Ontario or of Canada or of another province or territory of Canada may apply for initial registration as a loan corporation or as a trust corporation.

(2) A registered loan corporation may apply to change its registration to that of a trust corporation and a registered trust corporation may apply to change its registration to that of a loan corporation.

Registers
continued

Superin-
tendent
to keep
registers

Application
for
registration

Change

| | |
|---|---|
| Item | (3) A registered corporation may apply to amend the terms, conditions and restrictions of its registration. |
| Definition | (4) In this section and sections 32 to 39, "application for registration" means an application under subsection (1) for initial registration, an application under subsection (2) for a change in registration or an application under subsection (3) to change terms, conditions and restrictions imposed on a registration. |
| Material to be furnished | (5) An application for registration shall follow the prescribed form and shall be filed with the Superintendent together with such information, material and evidence as the form may specify. |
| Notice, additional information | (6) Where the Superintendent receives an application for the registration, the Superintendent may require notice of the application, containing such information as the Superintendent may require, to be published by the applicant in <i>The Ontario Gazette</i> and in a newspaper having general circulation in the locality where the principal place of business of the corporation is located or is to be located. |
| Additional information | (7) Where the Superintendent receives an application for the registration of a corporation, the Superintendent may require the applicant to provide such information, material and evidence as the Superintendent may consider necessary, in addition to the information, material and evidence required to be provided in or with the application. |
| Protection of depositors | (8) An application for registration shall be accompanied by evidence that the corporation will from the time of registration be a member of the Canada Deposit Insurance Corporation or that the corporation's deposits will be insured by some other similar public agency approved by the Superintendent up to the maximum amounts permitted by the agency. |
| Estate, trust and agency services | (9) An application for registration as a trust corporation shall set out the services in relation to which the corporation proposes to act in a fiduciary capacity. |
| Registration of extra-provincial corporations | 32. —(1) Where an extra-provincial corporation applies for registration, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario and an undertaking to the Superintendent signed by the proper corporate officers that the corporation and its subsidiaries will provide such information as the Superintendent may request and will adhere to this Act and to the terms, conditions and restrictions, if any, imposed on its registration. |

(2) A power of attorney under this section shall be under the seal of the corporation, if applicable in the jurisdiction of incorporation of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness.

(3) An undertaking under this section shall be accompanied by a certified copy of the resolution of the board of directors authorizing the corporation's officers to apply for registration under this Act and authorizing the execution of the undertaking.

(4) A power of attorney under this section shall be in the prescribed form and shall be accompanied by the affidavit or statutory declaration of the witness referred to in subsection (2) attesting to the due execution of the power of attorney.

(5) The production of a copy of a power of attorney under this section certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person or persons named therein to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy.

(6) When an extra-provincial corporation changes any of its agents in Ontario, it shall forthwith file with the Superintendent a new power of attorney in the prescribed form.

33. The Superintendent shall reject an application for registration,

- (a) unless the capital base of the corporation is at least \$5,000,000 in the case of a loan corporation and \$10,000,000 in the case of a trust corporation;
- (b) unless the corporation has satisfied the Superintendent that it has the capacity and power to engage in the activities of a loan corporation or a trust corporation, as the case may be;
- (c) if the applicant is not a corporation described in subsection 31 (1);
- (d) subject to section 34, unless it is shown to the satisfaction of the Superintendent that,
 - (i) in the locality where the principal place of business is located or is to be located there exists a public benefit and advantage for the registration of a corporation or for an addi-

Execution of power of attorney

Authentication

Contents of power of attorney

Effect of copy as evidence

Changes in chief agent or agency

Rejection of application

- tional corporation of the kind for which registration is sought,
- (ii) the management is fit, both as to character and as to competence, to manage a corporation of the kind for which registration is sought,
 - (iii) each person who will be a holder of 10 per cent or more of any class of shares of the applicant immediately after the registration can demonstrate the adequacy of their financial resources,
 - (iv) each director is fit, both as to character and as to competence, to be a director of the corporation of the kind for which registration is being sought,
 - (v) the proposed plan of operations of the corporation is feasible, and
 - (vi) the applicant intends to offer, to the public, initially or within a reasonable time after registration, the services set out in the application for registration and the applicant has the capability to provide such services; or
- (e) if the Superintendent is not satisfied as to the adequacy of any information received with or in support of the application for registration.
- 34.**—(1) Where the Superintendent is not satisfied as to all of the matters referred to in clause 33 (a), (b) or (d), the Superintendent in lieu of rejecting the application may approve the application for registration of the applicant,
- (a) as a corporation of a kind other than that which the application for registration was made and subject to such terms, conditions and restrictions as the Superintendent may impose; or
 - (b) as the kind of corporation for which the application for registration was made but subject to such terms, conditions and restrictions as the Superintendent may impose.
- Hearing (2) Before rejecting an application or before granting an application subject to terms, conditions and restrictions, the

Superintendent shall give the corporation an opportunity to be heard before him or her.

35. With the consent of the registered corporation, the Superintendent may impose terms, conditions and restrictions on the registration of a corporation or terms, conditions and restrictions in addition to those previously imposed on the registration of the corporation and subsection 34 (2) does not apply to such terms, conditions and restrictions.

Voluntary
terms and
conditions

36. At the request of a registered corporation, the Superintendent may revoke its registration subject to such terms, conditions and restrictions as the Superintendent may impose.

Cancellation
of
registration
on request of
corporation

37.—(1) Subject to subsection (2), no corporation shall be registered that has a name,

Names

(a) that contains a word or expression prohibited by this Act or the regulations or does not contain a word or expression required by this Act or the regulations or that in any other manner does not comply with this Act or the regulations;

(b) that is the same or similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on business or identifies itself,

if the use of that name would be likely to deceive;
or

- (c) that in the case of a trust corporation does not include,
- (i) "trust corporation",
 - (ii) "trust company",
 - (iii) "trustco", or
 - (iv) "trust" together with a designation such as "limited" or "incorporated".

Idem

(2) Notwithstanding clause (1) (b), a corporation may be registered with a name described in subclause (1) (b) (i) or (ii) upon complying with such conditions as may be prescribed.

Use of different name may be required

(3) Where a corporation has a name that contravenes subsection (1), the Superintendent may register the corporation if it undertakes to either change its name to a name that does not contravene subsection (1) or if it undertakes to carry on business in Ontario under a name that does not contravene subsection (1).

Change of name

(4) Where, through inadvertence or otherwise, a corporation has obtained registration under a name that contravenes subsection (1), the Superintendent, after giving the corporation an opportunity to be heard, may order as a condition of registration that the corporation carry on business under a name specified in the order.

Transition

38.—(1) If a corporation was registered under a predecessor of this Act and the registration was valid and subsisting immediately before the coming into force of this Act, the corporation, without being registered under this Act, may continue to carry on business in Ontario for sixty days following the coming into force of this Act and thereafter it may continue to carry on business in Ontario if within that sixty-day period it files an application for initial registration under section 31.

Idem

(2) Where an application referred to in subsection (1) is filed within the sixty-day period, the corporation, without being registered under this Act, may continue to carry on business in Ontario until the day the Superintendent rejects or approves the application.

Extra-provincial corporations—conditions of registration

39.—(1) No extra-provincial corporation shall be registered unless under its instrument of incorporation, its by-laws and the laws of the jurisdiction in which it is incorporated, the corporation and its shareholders, directors, officers,

employees and auditors are able to satisfy the requirements of sections 59 to 68, subsections 89 (2), (3), (4) and (5), sections 90, 96, 98, 100, 101, 102, 105, 106, 107, 108, 109 and 111 and Part VIII as if the extra-provincial corporation were a provincial corporation and those provisions, upon registration, apply to the extra-provincial corporation and its shareholders, directors, officers, employees and auditors as if the corporation were a provincial corporation.

(2) It shall be deemed to be a term of registration of every extra-provincial corporation that its registration expires forthwith if its instrument of incorporation, its by-laws or the laws of the jurisdiction in which it was incorporated are amended so that the persons referred to in subsection (1) are not able to satisfy the provisions of this Act referred to in that subsection. ^{Idem}

(3) Where the Superintendent is of the opinion that the depositors of an extra-provincial corporation are adequately protected, the Superintendent may register an extra-provincial corporation that would be unable to satisfy any of the provisions of this Act referred to in subsection (1) without being in contravention of the laws of the jurisdiction in which it is incorporated. ^{Idem}

PART V

SHARES AND SHAREHOLDERS

40. For the purposes of sections 47, 48, 50 and 54, deposits in a trust corporation shall be deemed to be a liability of the corporation notwithstanding that the deposit is held by it as trustee. ^{Deemed liability}

41.—(1) Shares of a provincial corporation shall be in registered form and shall be without nominal or par value. ^{Shares}

(2) Shares with a nominal or par value of a provincial corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value. ^{Idem}

42.—(1) Every provincial corporation shall have at least one class of shares designated as “common shares” in which the rights of the holders thereof are equal in all respects and shall include, ^{Common shares}

- (a) the right to vote at all meetings of shareholders;

- (b) the right to receive the remaining property of the corporation upon dissolution; and
- (c) the right to receive dividends of the corporation if declared on such shares.

Other classes
of shares

(2) Classes of shares in addition to common shares may be provided for in the instrument of incorporation and the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the instrument of incorporation but such shares shall not be designated as "common shares" or by any variation of that term.

Issuance of
shares

(3) Subject to this Act and the instrument of incorporation, shares may be issued at such time and to such persons and for such consideration as the directors may determine.

Shares
non-as-
sessable

(4) Shares issued by a provincial corporation are non-assessable and the holders are not liable to the provincial corporation or to its creditors in respect thereof.

Fully paid
shares

(5) On and after the day this section comes into force, a share in a provincial corporation shall not be issued until the consideration for the share is fully paid in Canadian dollars and received by the corporation.

Separate
capital
account

43.—(1) A provincial corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A provincial corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration.

Limitation on
additions to
stated capital
account

(3) On the issue of a share, a provincial corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

Transition

(4) Notwithstanding subsection (2), on the day this Act comes into force, the amount in the stated capital account maintained by a provincial corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and a provincial corporation may, upon complying with subsection (5), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

(5) Where a provincial corporation proposes to add any amount, other than an amount to be added under subsection 54 (2), to a stated capital account that it maintains in respect of a class or series of shares, the addition to the stated capital account must be approved by special resolution if,

Special
resolution
additions to
stated capital
account

- (a) the amount to be added,
 - (i) was not received by the provincial corporation as consideration for the issue of shares, or
 - (ii) was received by the provincial corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and
- (b) the provincial corporation has outstanding shares of more than one class or series.

(6) Where a class or series of shares of a provincial corporation would be affected by the addition of an amount to any stated capital account in a situation where a special resolution is required under subsection (5) in a manner different from the manner in which any other class or series of shares of the provincial corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Idem

44.—(1) Subject to its instrument of incorporation, the directors of a provincial corporation may authorize the issue of any class of shares other than common shares in one or more series and they may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series.

Special
shares
in series

(2) If any amount,

Proportionate
abatement

- (a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or
- (b) payable on return of capital in the event of the liquidation, dissolution or winding up of a provincial corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

- (c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or
- (d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority
of shares of
same class

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer upon the shares of a series a priority in respect of,

- (a) dividends; or
- (b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class.

Conversion
privileges

45.—(1) A provincial corporation may issue warrants as evidence of conversion privileges or options or rights to acquire its securities and it shall set out the conditions thereof,

- (a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or
- (b) in separate certificates or other documents.

Idem

(2) Conversion privileges and options or rights to purchase securities of a provincial corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached.

Corporation
to maintain
sufficient
reserve

(3) Where a provincial corporation has granted privileges to convert any securities, other than shares issued by it, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and, where the instrument of incorporation limits the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights.

Subsidiaries
not to hold
shares in
holding body
corporate

46. Except as provided in sections 47 to 49, a provincial corporation,

- (a) shall not hold shares in itself or in its holding body corporate; and
- (b) shall not permit any of its subsidiaries to hold shares in the corporation or in the holding body corporate of the corporation.

47.—(1) Subject to subsection (2) and to its by-laws, a provincial corporation may, on notice to the Superintendent, purchase or otherwise acquire shares issued by it to,

- (a) settle or compromise a debt or claim asserted by or against the corporation;
- (b) eliminate fractional shares; or
- (c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

(2) A provincial corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired; or
- (c) the effect of the purchase would be to cause the corporation to be in contravention of this Act or the regulations.

48.—(1) Subject to subsection (2) and to its by-laws and on notice to the Superintendent, a provincial corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price calculated according to a formula stated in the by-laws.

Purchase
of issued
shares

Restriction
on payment

Redemption
of shares

Restriction
on
redemption

(2) A provincial corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed; or
- (c) the effect of the redemption would be to cause the corporation to be in contravention of this Act or the regulations.

Donation of
share

49. A provincial corporation may accept from any shareholder a share of the corporation surrendered to it as a gift.

Reduction of
stated capital
account

50.—(1) Subject to subsection (4) and its instrument of incorporation, a provincial corporation, by special resolution and with the approval of the Superintendent, may reduce its stated capital for any purpose.

Right to
vote

(2) Where a class or series of shares of a provincial corporation would be affected by a reduction of stated capital under subsection (1) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote.

Account
reduced to
be
specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital affected by the special resolution will be made.

Restriction
on reduction

(4) A provincial corporation shall not take any action to reduce its stated capital for any purpose other than the purpose of declaring it to be reduced by an amount that is not represented by realizable assets if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due;
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities; or
- (c) the effect of the reduction would be to cause the corporation to be in contravention of this Act or the regulations.

(5) A shareholder, creditor or depositor of a provincial corporation is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.

Application
for order
where
improper
reduction

(6) Where it appears that there are numerous shareholders who may be liable under this section, the High Court of Justice may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes a claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined.

Class action

(7) No person holding shares in the capacity of a personal representative and registered on the records of the provincial corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the person named is subject to all liabilities imposed by this section.

Shareholder
holding
shares
in fiduciary
capacity

(8) This section does not affect any liability that arises under section 105.

Liability
not affected

51.—(1) Upon a purchase, redemption or other acquisition by a provincial corporation under section 47, 48 or 55 of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares

Reduction of
stated capital
account

of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Adjustment
in stated
capital
account

(2) A provincial corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 50 (3).

Idem

(3) Upon a change in issued shares of a provincial corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

(a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and

(b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(4) For the purpose of subsection (3), where a provincial corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of
shares
purchased

(5) Shares of any class or series or fractional shares issued by a provincial corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the instrument of incorporation limits the number of authorized shares of the class or series, may be restored to the status of authorized but unissued shares of the class.

Conversion
of shares

(6) Where shares of a class or series are changed or converted pursuant to their terms into the same or another num-

ber of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted.

52.—(1) A contract with a provincial corporation providing for the purchase by it of its own shares is specifically enforceable against it except to the extent that it can not perform the contract without thereby being in breach of section 47 or 48.

(2) In any action brought on a contract referred to in subsection (1), the provincial corporation has the burden of proving that performance thereof is prevented by section 47 or 48.

(3) Until the provincial corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of depositors, creditors and holders of subordinated notes but in priority to the other shareholders.

53. The directors of a provincial corporation may authorize the corporation to pay a reasonable commission to any person in consideration of the person,

- (a) purchasing or agreeing to purchase shares of the corporation from it or from any other person; or
- (b) procuring or agreeing to procure purchasers for any such shares.

54.—(1) The directors of a provincial corporation may declare and a provincial corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a provincial corporation may pay a dividend in money or property.

(2) If shares of a provincial corporation are issued in payment of a dividend, it shall add to the stated capital account maintained or to be maintained for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money.

(3) The directors shall not declare and a provincial corporation shall not pay a dividend if there are reasonable grounds for believing that,

Contract with
corporation
re
purchase of
its shares

Idem

Commission
on sale

Declaration
of
dividends

Share
dividend

When
dividend
not to be
declared

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due;
- (b) after the payment, the realizable value of the corporation's assets would thereby be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) its stated capital of all classes; or
- (c) the effect of the payment would be to cause the corporation to be in contravention of this Act or the regulations.

Lien on shares

55.—(1) The by-laws of a provincial corporation may provide that it has a lien on a share registered in the name of a shareholder or the shareholder's legal representative for a debt of that shareholder to the provincial corporation.

Where subs.(1) does not apply

(2) Subsection (1) does not apply to a provincial corporation that has shares listed on, or traded through the facilities of, a stock exchange recognized by the Ontario Securities Commission.

Enforcement of lien

(3) A provincial corporation may enforce a lien referred to in subsection (1) in accordance with its by-laws.

Restrictions on issue, transfer, etc.

56. A provincial corporation shall not impose restrictions on the issue, transfer or ownership of shares of any class or series except such restrictions as are authorized by its instrument of incorporation and this Act.

Investment securities 1982, c. 4

57. Part VI of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Insider liability

58. Part X of the *Business Corporations Act, 1982* applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

Definition

59.—(1) For the purposes of this section and sections 60 and 61, “non-resident” means,

- (a) an individual who is not a resident Canadian;
- (b) a body corporate incorporated, formed or otherwise organized elsewhere than in Canada;

- (c) a body corporate that is controlled directly or indirectly by non-residents as defined in clause (a) or (b);
- (d) a trust established by a non-resident as defined in clause (a), (b) or (c) or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest; or
- (e) a body corporate that is controlled directly or indirectly by a trust mentioned in clause (d).

(2) For the purposes of this section and sections 60 and 61, a shareholder shall be deemed to be associated with another shareholder if,

Associated shareholder

- (a) one shareholder is a body corporate of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a body corporate that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are bodies corporate and one shareholder is controlled directly or indirectly by the same individual or body corporate that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

(3) For the purposes of this section and sections 60 and 61, where a voting share of a provincial corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Shares held jointly

(4) For the purposes of this section and sections 60 and 61, a body corporate shall be deemed to be controlled by another person or body corporate or by two or more bodies corporate if voting securities of the first-mentioned body corporate carrying more than 10 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or body corporate or by or for the benefit of the other bodies corporate.

Deemed control

Limit on
shares held
by
non-resident

60.—(1) The directors of a provincial corporation shall refuse to allow in the securities register of the corporation the entry of a transfer of any voting shares of the corporation to a non-resident,

- (a) if, when the total number of voting shares of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by non-residents;
- (b) if, when the total number of voting shares of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding voting shares, the entry of the transfer would cause the total number of such shares held by non-residents to exceed 25 per cent of the total number of issued and outstanding voting shares;
- (c) if, when the total number of the voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, exceeds 10 per cent of the total number of issued and outstanding voting shares, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with the non-resident; or
- (d) if, when the total number of voting shares of the corporation held by the non-resident and by other shareholders associated with the non-resident, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares held by the non-resident and by other shareholders associated with the non-resident, if any, to exceed 10 per cent of the issued and outstanding voting shares.

Exception

(2) Notwithstanding subsection (1), the directors of a provincial corporation may allow in the securities register of the corporation the entry of a transfer of any voting shares of the corporation to a non-resident when it is shown to the directors on evidence satisfactory to them that the share was, immediately before the 17th day of June, 1970, held in the right of or for the use or benefit of the non-resident.

Allotment to
non-resident

(3) The directors of a provincial corporation shall not allot, or allow the allotment of any voting shares of the corporation

to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the securities register would be required, under subsection (1), to be refused by the directors.

(4) Default in complying with this section does not affect the validity of a transfer or allotment of voting shares of the provincial corporation that has been entered into the securities register of the corporation, but every director or officer who knowingly authorizes or permits such default is guilty of an offence.

61.—(1) Non-residents shall not exercise the voting rights attached to shares of a provincial corporation unless entered in the securities register of the corporation as a shareholder in respect of the shares.

(2) Where a person that is a resident Canadian or a body corporate that is resident in Canada holds voting shares of a provincial corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the securities register of the corporation as the holder, the person shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

(3) Where a person that is a resident Canadian or a body corporate that is resident in Canada becomes a non-resident while entered in the securities register of a provincial corporation as a shareholder and the number of voting shares of such person recorded in the securities register when added to those entered therein as owned by other non-residents exceed the limit set out in section 60, the person shall not exercise, directly, by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 60.

(4) Notwithstanding subsections (1), (2) and (3), where any voting shares of a provincial corporation are held in the name of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered in the securities register of the corporation before the 17th day of June, 1970 or is entered in the securities register under subsection 60 (2), no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held by the non-resident or in the non-resident's right or for the non-resident's use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

Offence

Voting by
non-residentsVoting rights
of nominees
suspendedChange of
status while
entered on
booksVoting rights
of single
non-resident
owner

- (a) any shareholders associated with the non-resident; or
- (b) any persons who would, be deemed to be shareholders associated with the non-resident were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding voting shares of such shares.

Offence (5) Every person who knowingly contravenes this section is guilty of an offence.

Effect of contravention (6) No proceeding, matter or thing at a general meeting of a provincial corporation is void by reason only of a contravention of this section, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a resolution passed at a special general meeting of the corporation.

Deemed holding body corporate **62.** For the purposes of sections 63 and 64, a company, individual or trust that, by itself or with any company, individual or trust related to it, if any, that holds or controls 10 per cent or more of the total number of issued and outstanding shares of a class of voting shares of a corporation shall be deemed to be a holding body corporate and the shares and the issue or transfer of shares of the holding body corporate shall be deemed to be shares or a transfer or issue of shares to which the said sections 63 and 64 apply.

Consent of Superintendent **63.—(1)** No transfer or issue of voting shares of a provincial corporation shall be entered in its securities register until the consent of the Superintendent has been received by the corporation, if,

- (a) when the total number of shares of a class of voting shares of the corporation held by a person and by other shareholders related to the person, if any, exceeds 10 per cent of the total number of the issued and outstanding shares of that class, the transfer or issue would increase the percentage of shares of that class held by such person; or
- (b) when the total number of shares of a class of voting shares of the provincial corporation held by a person and by other shareholders related to the person, if any, is 10 per cent or less of the total number of issued and outstanding shares of that class, the

transfer or issue would cause the total number of shares of that class held by such person and by other shareholders related to the person, if any, to exceed 10 per cent of the issued and outstanding shares of that class,

and until the consent of the Superintendent is received by the corporation, no person shall, in person or by proxy, exercise the voting rights pertaining to any of the voting shares that are held by or in the name of the shareholder or by or in the name of any person related to the shareholder.

(2) A person to whom shares are to be transferred or issued in circumstances that require the consent of the Superintendent may apply for the consent and, for the purposes of the application, the person shall provide the Superintendent with such information as the Superintendent may request.

(3) On an application under subsection (2), the Superintendent may refuse consent where, in his or her opinion, it would be in the public interest to do so and, without limiting the generality of the foregoing, the Superintendent may refuse consent where the shareholder or any person related to the shareholder,

- (a) is or has been bankrupt;
- (b) has been convicted of a criminal offence, an offence under this Act or an offence under the *Securities Act*;
- (c) is or has been subject to a cease trading order under the *Securities Act*;
- (d) is subject to an examination under section 184 or an investigation under section 204;
- (e) is contravening any provision of this Act or the regulations or of any comparable legislation of another jurisdiction or of any undertaking given to the Superintendent; or
- (f) has failed to provide the information requested under subsection (2).

(4) The consent of the Superintendent under this section takes effect on the date set out in the consent and the effective date may be a date before the date the consent is given.

Application
to
Superin-
tendent

Refusal of
consent

R.S.O. 1980,
c. 466

Effective
date of
consent

Declaration
may be
required

64. The Superintendent may, from time to time, in writing, direct a provincial corporation to obtain from any person in whose name a share of the corporation is held or beneficially owned a declaration containing information,

- (a) concerning the ownership or beneficial ownership of such share;
- (b) as to whether such share is held or beneficially owned by a person who is related to any other person and the name of that other person where applicable;
- (c) concerning the ownership or beneficial ownership of the shares of a holding company; and
- (d) concerning such other matters as are specified by the Superintendent,

and as soon as possible after the receipt of a direction from the Superintendent under this section, the directors of the corporation shall comply therewith and every person who is requested by the corporation to provide a declaration in the prescribed form containing information referred to in this subsection shall forthwith comply with the request by submitting the completed declaration to the Superintendent.

Hearing

65.—(1) Where the Superintendent proposes to refuse consent under section 63, he or she shall forthwith advise the applicant and shall give the applicant an opportunity to be heard before him or her.

Power of
L.G. in C.

(2) Upon the petition of the applicant, filed with the Clerk of the Executive Council within twenty-eight days after the date of the decision of the Superintendent under subsection (1), the Lieutenant Governor in Council may,

- (a) confirm, vary or rescind the whole or any part of such decision; or
- (b) require the Superintendent to hold a new public hearing of the whole or any part of the application to the Superintendent upon which such decision of the Superintendent was made,

and the decision of the Superintendent after the public hearing under clause (b) is not subject to petition under this section.

(3) Except as provided in subsection (2), a decision of the Superintendent under this section is final and binding and no such decision or decision as confirmed or varied under subsection (2) shall be stayed, varied or set aside by any court.

66. The Superintendent, with the approval of the Lieutenant Governor in Council, may by order exempt any corporation or other person from the application of sections 63 to 65, in whole or in part, on such terms and conditions as are set out in the order and where any such order is filed with the corporation named in the order, it shall be deemed to be a consent of the Superintendent for the purpose of section 63, so long as the terms and conditions of the order have been complied with.

67.—(1) No transfer of shares of a provincial corporation, unless made by a sale under execution or under the order or judgment of a court of competent jurisdiction, is valid for any purpose until the transfer has been entered in the securities register of the corporation.

(2) Notwithstanding subsection (1), a transfer of shares that has not been entered in the securities register of a provincial corporation is valid for the purpose of showing the rights as between the parties to the transfer.

68.—(1) The directors of a provincial corporation may make by-laws,

(a) requiring any person holding any voting share of the corporation to submit written declarations,

(i) with respect to the ownership of a share of the corporation or of the holding body corporate,

(ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,

(iii) as to whether the shareholder is associated with or related to any other shareholder, and

(iv) with respect to such other matters as the directors consider relevant for the purposes of sections 60 to 67;

(b) prescribing the times at which and the manner in which any declarations required under clause (a) are to be submitted; and

Decision
final

Exemption

Transfer
valid only
after entry

Exceptions

By-laws

(c) requiring any person desiring to have a transfer of a share to the person entered in the securities register of the corporation to submit such a declaration as may be required under this section in the case of a shareholder.

Where
declaration
pending

(2) Where by or under any by-law made under subsection (1), any declaration is required to be submitted by any shareholder or person in respect of the transfer of any share, the directors may prohibit the entry of the transfer in the securities register of the corporation until the required declaration has been submitted.

Liability of
directors

69. In determining, for the purposes of whether a person is a resident Canadian, body corporate resident in Canada or a non-resident, by whom a body corporate is controlled or any other circumstances relevant to the performance of their duties under sections 60 to 67, the directors of the provincial corporation and any other person acting as proxy for a shareholder of the provincial corporation may rely upon any statement made in any declarations made pursuant to a by-law made under subsection 68 (1) or rely upon their own knowledge of the circumstances, and the directors and any such person are not liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge.

Shareholders
liability
limited

70. Except as otherwise provided in this Act, the shareholders of a provincial corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation.

Place of
meetings

71. Subject to the by-laws, a meeting of shareholders of a provincial corporation shall be held at such place in Canada as the directors determine or, in the absence of such a determination, at its principal place of business.

Shareholders
meeting

72. The directors of a provincial corporation,

- (a) shall call an annual meeting of shareholders not later than three months after the corporation comes into existence and subsequently not later than three months after each fiscal year end of the corporation; and
- (b) may call a special meeting of shareholders at any time.

Record date

73.—(1) For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held. Idem

(3) Where no record date is fixed,

Where no
date fixed

- (a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,
 - (i) at the close of business on the day immediately preceding the day on which the notice is given, or
 - (ii) if no notice is given, the day on which the meeting is held; and
- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution therefor.

(4) If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register of the corporation at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed. Notice of
date

- (a) by advertisement in a newspaper published or distributed in the place where the provincial corporation has its principal place of business and in each

place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and

- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading.

Notice

74.—(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of a provincial corporation that is an offering corporation, not less than twenty-one days and, in the case of any other provincial corporation, not less than ten days, but, in either case, not more than fifty days before the meeting to each shareholder entitled to vote at the meeting, to each director and to the auditor.

Idem

(2) A notice of a meeting is not required to be sent to shareholders who were not registered on the securities register of the provincial corporation on the date determined under subsection 73 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

Adjournment

(3) If a meeting of shareholders is adjourned for less than thirty days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned.

Idem

1982, c. 4
(4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, section 111 of the *Business Corporations Act*, 1982, as incorporated into this Act under section 86, does not apply.

Special business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and

- (b) the text of any special resolution or by-law to be submitted to the meeting.

75. Subject to this Act and the by-laws of a provincial corporation, Shareholders meeting

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to subsections 74 (3) and (4) and to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place; and
- (c) the president or, in the president's absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman.

76. A shareholder and any other person entitled to attend a meeting of shareholders of a provincial corporation may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where the shareholder attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. Waiving notice

77.—(1) A shareholder of a provincial corporation entitled to vote at a meeting of shareholders may, Proposal

- (a) submit to the corporation notice of a proposal; and
- (b) discuss at the meeting any matter in respect of which the shareholder would have been entitled to submit a proposal.

(2) Where a provincial corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 of the *Business Corporations Act*, 1982, as incor-

Circulating proposal

1982, c. 4

porated into this Act under section 86, or it shall attach the proposal to the information circular.

Statement in support of proposal

(3) If so requested by a shareholder giving notice of a proposal, the provincial corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder.

Proposal may include nominations

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders.

Where subss.
(2, 3) do
not apply

(5) A provincial corporation is not required to comply with subsections (2) and (3) where,

- (a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;
- (c) the corporation, at the shareholder's request, included a proposal in a management information circular relating to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or
- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years pre-

ceding the receipt of the shareholder's request and the proposal was defeated.

(6) No provincial corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section. Where no liability

(7) Where a provincial corporation refuses to include a proposal in a management information circular, it shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to the shareholder a statement of reasons for the refusal. Where refusal to circulate proposal

(8) Upon the application of a shareholder aggrieved by a provincial corporation's refusal under subsection (7), the High Court of Justice may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit. Application to Court

(9) The provincial corporation or any person aggrieved by a proposal may apply to the High Court of Justice for an order permitting the provincial corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit. Idem

(10) An applicant under subsection (8) or (9) shall give the Superintendent notice of the application and the Superintendent is entitled to appear and be heard in person or by counsel. Notice to Superintendent

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders. Definition

78.—(1) A provincial corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared, Lists of shareholders

(a) if a record date is fixed under subsection 73 (2), not later than ten days after such record date; or

(b) if no record date is fixed,

(i) at the close of business on the day immediately preceding the day on which notice is given, or

Entitlement
to vote

- (ii) where no notice is given, on the day on which the meeting is held.

(2) Where a provincial corporation fixes a record date under subsection 73 (2), a person named in the list prepared under clause (1) (a), subject to sections 59 to 67, is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

(a) the person has transferred any of the shares after the record date; and

(b) the transferee of those shares,

(i) produces properly endorsed share certificates,
or

(ii) otherwise establishes ownership of the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

Idem

(3) Where a provincial corporation does not fix a record date under subsection 73 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite the person's name at the meeting to which the list relates, except to the extent that,

(a) the person has transferred any of the shares after the date on which the list prepared under clause (1) (b) was prepared; and

(b) the transferee of those shares,

(i) produces properly endorsed share certificates,
or

(ii) otherwise establishes ownership of the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

(4) A shareholder of a provincial corporation may examine the list of shareholders,

Examination
of list

- (a) during usual business hours at the principal place of business of the corporation or at the place where its securities register is maintained; and
- (b) at the meeting of shareholders for which the list was prepared.

79.—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum.

Quorum

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

Idem

80.—(1) Each common share of a provincial corporation entitles the holder thereof to one vote at all meetings of shareholders.

Voting rights

(2) Unless the instrument of incorporation otherwise provides, shares of a provincial corporation that are not common shares entitle the holder thereof to one vote at all meetings of shareholders.

Idem

(3) Where a body corporate or association is a shareholder of a provincial corporation, the provincial corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the provincial corporation.

Representative

(4) An individual authorized as set out in subsection (3) may exercise on behalf of the body corporate or association he or she represents all the powers it could exercise if it were an individual shareholder.

Idem

Joint
shareholders

(5) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them.

Method of
voting

81.—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting.

Idem

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands.

Entry in
minutes

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion.

Effect of
signed
resolutions

82.—(1) Except where a written statement is submitted by a director under subsection 96 (2) or where representations in writing are submitted by an auditor under subsection 112 (6),

- (a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders, is as valid as if it had been passed at a meeting of the shareholders; and
- (b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

Copy of
resolution
kept with
minutes

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meeting of shareholders.

Requisition
for
shareholders
meeting

83.—(1) On notice to the Superintendent, the holders of not less than 5 per cent of the issued shares of a provincial corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition.

Idem

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the principal place of business of the corporation.

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless,

Duty of
directors to
call meeting

- (a) a record date has been fixed under subsection 73 (2) and notice thereof has been given under subsection 73 (4);
- (b) the directors have called a meeting of shareholders and have given notice thereof under section 74; or
- (c) the business of the meeting as stated in the requisition includes matters described in clauses 77 (5) (b), (c) and (d).

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call a meeting.

Where
requisitioner
may call
meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws and this Part.

Calling of
meeting

(6) The provincial corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally.

Repayment
of
expenses

84.—(1) If for any reason it is impracticable to call a meeting of shareholders of a provincial corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws and this Act, or if for any other reason the High Court of Justice thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court considers appropriate.

Requisition
to Court

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

Idem

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the provincial corporation duly called, held and conducted.

Effect of
meeting

Notice to
Superin-
tendent

(4) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Application
to court re:
directors and
auditors

85.—(1) A shareholder or director of a provincial corporation or the corporation, may apply to the High Court of Justice to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Notice to
Superin-
tendent

(2) A person applying under subsection (1) shall give notice of the application to the Superintendent before the hearing and shall deliver a copy of the court's order, if any, to the Superintendent.

Notice of
orders

(3) Upon an application under this section, the court may make any order it considers appropriate including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares.

Proxies
1982, c. 4

86. Part VIII of the *Business Corporations Act*, 1982 applies with necessary modifications with respect to every provincial corporation as if it were a corporation incorporated under that Act.

PART VI

DIRECTORS AND OFFICERS

Directors'
duties

87. The directors shall manage or supervise the management of the business and affairs of a provincial corporation.

88.—(1) The concurrence of a majority of the directors present at a meeting of the directors is necessary to pass any resolution.

(2) Unless the instrument of incorporation, this Act or the by-laws otherwise provide, the directors, by resolution, may make, amend or repeal any by-laws that regulate the business or affairs of a provincial corporation.

(3) Where a by-law is made, amended or repealed under subsection (2), the directors shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders shall confirm, reject or amend the by-law, amendment or repeal.

(4) Where a by-law is made, amended or repealed under subsection (2), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (3) or until it ceases to be effective under subsection (5) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

(5) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (3), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

(6) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 77 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

(7) A by-law need not be described as a by-law in a resolution referred to in this section.

89.—(1) A provincial corporation shall have at least five directors.

(2) At least one third of the directors of a provincial corporation shall be outside directors.

Idem

(3) For the purposes of this Part, an individual is eligible to be an outside director only if,

- (a) the individual does not hold more than 10 per cent of the voting shares of the corporation or of any of its affiliates;
- (b) the individual is not an officer or employee of the corporation or any of its affiliates and has not been an officer or employee of the corporation or any of its affiliates within two years of the date of his or her becoming a director;
- (c) the individual is not a spouse or child of an individual described in clause (a) or (b); and
- (d) the individual is not a relative of an individual described in clause (a) or (b) or a relative of a spouse of an individual described in clause (a) or (b) or if the individual is such a relative, he or she does not have the same home as an individual described in clause (a) or (b) or as a spouse of an individual described in clause (a) or (b).

Citizenship

(4) The majority of directors of a provincial corporation shall be resident Canadian citizens.

Change in
number of
directors

(5) A provincial corporation may by special resolution increase or decrease the number of its directors but no decrease in the number of directors shall shorten the term of an incumbent director or reduce the number of directors to fewer than five.

Director
disqualifi-
cation

90. The following persons are disqualified from being a director of a provincial corporation:

1. A person who is not an individual.
2. An individual who is less than eighteen years of age.
3. An individual who is of unsound mind and who has been so found by a court in Canada or elsewhere.
4. An individual who has the status of bankrupt.
5. An individual who is a director of a corporation not affiliated with the corporation of which the individual wishes to become a director.

91. Unless the instrument of incorporation or the by-laws otherwise provide, a director of a provincial corporation is not required to hold shares issued by the corporation. Holding shares

92.—(1) Each director named in the instrument of incorporation of a provincial corporation shall hold office from the date of issue of the instrument until the first meeting of shareholders following the issue of the instrument. Directors named in instrument of incorporation

(2) The shareholders of a provincial corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting, directors to hold office for a term expiring not later than the close of the next annual meeting of shareholders following the election. Election

(3) A director ceases to hold office at the close of the first annual meeting of shareholders following the director's election. Term of a director

(4) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders, the incumbent directors continue in office until their successors are elected. Idem

(5) If a meeting of shareholders fails to elect the number of directors required by the by-laws or by subsection 89 (1) by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the provincial corporation pending the holding of a meeting of shareholders in accordance with subsection 97 (2). Failure to elect

(6) Upon the election of a director, notice of such election shall be given to the Superintendent in the prescribed form. Notice to Superintendent

93. Where the by-laws provide for cumulative voting, Cumulative voting

(a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by the shareholder multiplied by the number of directors to be elected, and may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;

(b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;

- (c) if a shareholder has voted for more than one candidate without specifying the distribution of votes among the candidates, the shareholder is deemed to have distributed the votes equally among the candidates;
- (d) if the number of candidates nominated for director exceed the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) a director may not be removed from office if the votes cast against removal would be sufficient for election as a director and such votes could be voted cumulatively at an election at which the same total number of directors required by the by-laws were then being elected; and
- (f) the number of directors required by the by-laws may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were then being elected.

When
director
ceases to
hold
office

94.—(1) A director of a provincial corporation ceases to hold office upon,

- (a) death or resignation;
- (b) removal under section 95; or
- (c) becoming disqualified under section 90.

Resignation

(2) A resignation of a director becomes effective at the time a written resignation is received by the provincial corporation or at the time specified in the resignation, whichever is later.

Notice to
Superin-
tendent

(3) Upon receipt of the resignation of a director, the provincial corporation shall deliver notice to the Superintendent of the resignation together with a copy of any statement made under subsection 96 (2) or (3).

Removal of
directors

95.—(1) Subject to clause 93 (e), the shareholders of a provincial corporation may by resolution at an annual or special meeting remove any director from office.

(2) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by resolution at a meeting of the shareholders of that class or series. ^{Idem}

(3) Subject to clauses 93 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 97. ^{Idem}

96.—(1) A director of a provincial corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders. ^{Notice to director}

(2) A director of a provincial corporation who, ^{Reasons for resignation}

- (a) resigns;
- (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him or her from office; or
- (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because the director's term of office has expired or is about to expire,

may submit to the corporation a written statement giving the reasons for the resignation or the reasons, if any, why he or she opposes any proposed action or resolution, as the case may be.

(3) Where a director of a provincial corporation resigns because he or she disagrees with an action or omission of the board of directors or of the management of the corporation and, ^{Idem}

- (a) the director knows or believes that as a result of the action or omission the corporation or any shareholder, director, officer or employee of the corporation is or will be in contravention of this Act, the *Securities Act* or the *Criminal Code* (Canada) or legislation of another jurisdiction that is comparable to this Act or the *Securities Act*; or
- (b) the director knows or believes that as a result of the action or omission there has been or will be a change in the circumstances of the corporation that

R.S.O. 1980.
c. 466

R.S.C. 1970.
c. C-34

might materially and adversely affect the financial position of the corporation,

the director shall submit to the corporation a written statement giving the reasons for the resignation.

Distribution of statement

(4) Upon receiving a statement under subsection (2), the corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders unless the statement is included in or attached to a management information circular.

No liability

(5) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (4).

Idem

(6) A person who in good faith makes a statement under subsection (3) shall not be liable in any civil action arising out of the statement.

Notice to Superintendent

(7) A director who resigns as director of a provincial corporation shall forthwith give notice to the Superintendent of the resignation and a copy of any written statement given under this section.

Vacancies

97.—(1) Subject to subsections (3) and (4), a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from,

- (a) an increase in the number of directors; or
- (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.

Election to make quorum

(2) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the by-laws or by subsection 89 (1), the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder.

Election by class of shareholders

(3) Where the holders of any class or series of shares of a provincial corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

- (a) subject to subsection (4), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a

failure to elect the number of directors for that class or series; or

- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

(4) The by-laws may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series. No quorum

(5) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor. Term

98.—(1) The election or appointment of a person to the board of directors of a provincial corporation does not take effect until the corporation has satisfied the Superintendent that the person is fit, both as to character and competence, to be a director of a corporation and the Superintendent has approved the election or appointment of the person as a director. Director's fitness

(2) The Superintendent may require a corporation to provide such information, material and evidence as the Superintendent may consider necessary to decide the fitness of a person to be a director. Information

(3) If the Superintendent does not notify a corporation, within thirty days of being asked to approve the appointment or election of a proposed director, that he or she is satisfied that the proposed director is fit to be a director or give notice of the time and place of a hearing on the matter, he or she shall be deemed to be satisfied as to the person's fitness to be a director. Deemed approval

(4) Subsections (1) to (3) do not apply, Non-application

- (a) to a person who on the day this section comes into force is a director of a corporation so long as he or she remains a director of the corporation; or
- (b) to a person who has been approved under this section so long as he or she remains a director of the corporation.

99.—(1) Where the by-laws of a provincial corporation so provide, a meeting of its board of directors may be held at Place of meetings

any place within Canada and otherwise shall be held at its principal place of business.

Minimum number of meetings

(2) The board of directors shall meet at least five times in each year.

Quorum

(3) Subject to the by-laws and subsection (4), a majority of the number of directors required by the by-laws constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors, of which one must be an outside director.

Idem

(4) Subject to the instrument of incorporation or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Calling meeting of directors

(5) In addition to any other provision in the by-laws of a provincial corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(6) Subject to the by-laws of the provincial corporation, notice of the time and place for the holding of the meeting called under subsection (5) shall be given to each director of the corporation by sending the notice ten days or more before the date of the meeting to the last address of the director as shown on the records of the corporation.

Waiver of notice

(7) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

Adjourned meeting

(8) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.

Meeting by telephone, etc.

(9) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting.

(10) If a majority of the directors participating in a meeting held under subsection (9) is then in Canada, the meeting shall be deemed to have been held in Canada.

Place of
meeting by
telephone

100.—(1) The shareholders of a provincial corporation, by special resolution and subject to subsection (2), may authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than three to be appointed by the directors from their number and at least one member of the executive committee shall be an outside director.

Executive
committee

(2) No executive committee has authority to,

Limitations
on authority

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor or appoint or remove the chief operating officer, however designated, the chief executive officer, however designated, the chief financial officer, however designated, the chairman of the board or the president of the corporation;
- (c) issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 53;
- (g) approve a management information circular;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular or any amendment to any such circular referred to in Part XIX of the *Securities Act*;
- (i) approve any financial statements under subsection 119 (1);
- (j) adopt, amend or repeal by-laws;
- (k) approve any item requiring approval of the board of directors under Part IX; or
- (l) approve prudent lending standards under section 152.

R.S.O. 1980,
c. 466

Further limitation

(3) No business shall be transacted by an executive committee unless at least one outside director is present at the meeting.

Chairman

101.—(1) The directors of a provincial corporation shall from time to time elect from among themselves a person, other than the chief executive officer, however designated, of the corporation, to be the chairman of the board.

Other officers

(2) The directors may designate the offices of the corporation and may appoint officers to those offices and specify their duties.

Qualifications

(3) Where the regulations prescribe qualifications for appointment as an officer, the directors shall not appoint a person who does not have those qualifications.

Audit and investment committees

102.—(1) The directors of a provincial corporation shall appoint from their number an audit committee and an investment committee which committees shall fulfil such duties as are required by this Act and as are prescribed by the regulations.

Idem

(2) Each committee appointed under subsection (1) shall consist of at least three members and a majority of the members shall be outside directors.

Acts not invalid

103. An act done by the board of directors or by an officer is not invalid by reason only of any defect that is thereafter discovered in the appointment, election or qualification of any of the directors or of the officer.

Resolutions

104.—(1) A resolution, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors.

Idem

(2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors.

Liability

105.—(1) Directors of a provincial corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution.

(2) Directors of a provincial corporation who vote for or ^{Idem} consent to a resolution authorizing,

- (a) any investment or transaction contrary to Part IX;
- (b) a purchase, redemption or other acquisition of shares contrary to section 47 or 48;
- (c) a reduction in the stated capital of the corporation contrary to section 50;
- (d) a commission contrary to section 53;
- (e) a payment of a dividend contrary to section 54;
- (f) a payment of an indemnity contrary to section 109;
- (g) a payment to a shareholder contrary to an order under section 209; or
- (h) any other payment to a shareholder, director or officer the effect of which is to reduce the capital base of the corporation to an amount that is less than that required under this Act,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by it.

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. Joint liability

(4) A director liable under this section is entitled to apply to the High Court of Justice for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX, section 47, 48, 50, 53, 54 or 109 or an order made under section 209. Application to Court

(5) In connection with an application under subsection (4), ^{Idem} the court may, if it is satisfied that it is equitable to do so,

- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to Part IX or section 47, 48, 50, 53, 54 or 109 or an order made under section 209;

- (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
- (c) make any further order it thinks fit.

Liability
for wages

106.—(1) The directors of a provincial corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the provincial corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder or under any collective agreement made by the provincial corporation.

R.S.O. 1980,
c. 137

Limitation

- (2) A director is liable under subsection (1) only if,
 - (a) the director is sued while a director or within six months after ceasing to be a director; and
 - (b) the action against the director is commenced within six months after the debt became payable, and
 - (i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or
 - (ii) before or after the action is commenced the corporation is deemed insolvent and is ordered to be wound up under the *Winding Up Act* (Canada) or is unable to pay its debts and is ordered to be wound up under the *Winding Up Act* (Canada) and the claim for debts is proved.

R.S.C. 1970,
c. W-10

Idem

(3) Where execution referred to in clause (2) (b) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Rights of
director who
pays debt

(4) Where a director pays a debt under subsection (1), the director is entitled to any preference that the employee would have been entitled to under the *Winding Up Act* (Canada), and, where a judgment has been obtained, the director is entitled to an assignment of the judgment.

Contribution

(5) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

107.—(1) For the purpose of this section, a director or officer includes a person acting in a capacity similar to, or performing functions of, a director or officer.

(2) Every director and officer of a provincial corporation in exercising his or her powers and in discharging his or her duties,

- (a) shall act honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) shall exercise the care, diligence and skill of a reasonably prudent director or officer, as the case may be, under comparable circumstances.

(3) In considering whether a particular transaction or course of action is in the best interests of the provincial corporation as a whole, a director or officer shall have due regard to the interests of the depositors, as well as the shareholders of the corporation and, in the case of a trust corporation, shall also have due regard to the interests of the persons for whom it acts in a fiduciary capacity.

(4) Every director and officer of a provincial corporation shall comply with this Act and the regulations and the corporation's instrument of incorporation and by-laws.

(5) No provision in a contract, the instrument of incorporation or the by-laws or a resolution relieves a director or officer of a provincial corporation from the duty to act in accordance with this Act and the regulations or relieves the director or officer from liability for a breach thereof.

108.—(1) A director who is present at a meeting of directors or committee of directors shall be deemed to have consented to any resolution passed or action taken thereat unless,

- (a) the director's dissent is entered in the minutes of the meeting;
- (b) the director requests that a dissent be entered in the minutes of the meeting;
- (c) the director sends a written dissent to the secretary of the meeting before the meeting is terminated; or
- (d) the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation immediately after the meeting is terminated.

Deemed
directorStandard of
care

Idem

Duty to
comply with
ActCannot
contract out
of liabilityConsent of
director at
meeting

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented thereto unless within seven days after becoming aware of the resolution the director sends a dissent by registered mail or delivers it to the principal place of business of the corporation and requests that the dissent be entered in the minutes of the next meeting.

Indemnification

109.—(1) A provincial corporation may indemnify a person who is a director or officer of the corporation or a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor or for which the corporation acted in a fiduciary capacity, and the person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by or on behalf of the person in respect of any civil, criminal or administrative action or proceeding to which the person is made a party by reason of being or having been a director or officer of such corporation or body corporate if,

- (a) the person acted honestly and in good faith with a view to the best interests of the corporation as a whole; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the person had reasonable grounds for believing that the conduct was lawful.

Idem

(2) A corporation may, with the approval of the High Court of Justice, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which the person is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and expenses reasonably incurred by or on behalf of the person in connection with such action if the person fulfils the conditions set out in clauses (1) (a) and (b).

Idem

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the person in connection with the defence of any civil, criminal or administrative action or proceeding to

which the person is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

(a) was substantially successful on the merits in the defence of the action or proceeding; and

(b) fulfils the conditions set out in clauses (1) (a) and (b).

(4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by the person in the person's capacity as a director or officer of the corporation, except where the liability relates to a failure to act honestly and in good faith with a view to the best interests of the corporation as a whole.

Liability insurance

(5) A corporation or a person referred to in subsection (1) may on notice to the Superintendent apply to the High Court of Justice for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Application to Court

(6) Upon an application under subsection (5), the court may order that notice be given to any interested person and such person is entitled to appear and be heard in person or by counsel.

110. The shareholders of a provincial corporation shall fix the remuneration of the directors.

Idem

Remuneration of directors

111.—(1) Each provincial corporation shall keep a record of the total number of meetings of the directors and of the audit and investment committees and the number of such meetings attended by each director.

Attendance records

(2) A summary of the record kept under subsection (1) shall be sent to each shareholder and to the Superintendent with the notice of the annual meeting and shall be available on request to any depositor of the corporation.

Idem

PART VII

AUDITORS AND FINANCIAL STATEMENTS

112.—(1) The shareholders of a provincial corporation at their first annual or special meeting shall appoint an auditor to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment.

Auditors

Idem

(2) The shareholders of every provincial corporation shall at each annual meeting appoint an auditor to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of
auditor

(4) Except where the auditor has been appointed under subsection (8), the shareholders of a provincial corporation, by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, may remove an auditor before the expiration of the auditor's term of office, and shall, by a majority of the votes cast at that meeting, appoint another auditor for the remainder of the removed auditor's term.

Notice

(5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right to
make
representa-
tions

(6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning,

- (a) his or her proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) his or her resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

Remuneration

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors

if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

(8) If a provincial corporation does not have an auditor, the High Court of Justice, upon the application of a director, a shareholder or the Superintendent, may appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders.

(9) A provincial corporation, forthwith after the appointment of a person as auditor, shall give written notice of the appointment to the person and to the Superintendent.

(10) Where a provincial corporation has a vacancy in the office of auditor, it shall give notice of the vacancy forthwith to the Superintendent.

113.—(1) The auditor of a provincial corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, may attend and be heard thereat on matters relating to his or her duties as auditor.

(2) If any director or shareholder of a corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, at least five days before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting, at the expense of the corporation, and answer questions relating to his or her duties as auditor.

(3) An auditor is not required to comply with subsection (2) where it clearly appears that the request under subsection (2) is made primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the duties of the auditor.

(4) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation.

(5) No person shall accept appointment or consent to be appointed as auditor of a provincial corporation if the person is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until the person has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, he or she is to be replaced.

Appointment
by Court

Notice of
appointment

Notice of
vacancy

Right to
attend
shareholder
meetings

Attend upon
request

Idem

Idem

Replacement
auditor

Idem

(6) Notwithstanding subsection (5), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, the person does not receive a reply.

Idem

(7) A person receiving a statement under subsection (5) shall promptly deliver a copy of the statement to the Superintendent and if no statement is received from the auditor being replaced within fifteen days after the request referred to in subsection (5), the person requesting the statement shall promptly give notice to the Superintendent of this fact.

Idem

(8) Any interested person may apply to the High Court of Justice for an order declaring the office of auditor of a provincial corporation to be vacant if the auditor has not complied with subsection (5), unless subsection (6) applies with respect to the appointment of the auditor.

No liability

114. An auditor or former auditor who in good faith makes an oral or written statement or report under this Act shall not be liable in any civil action arising therefrom.

Disqualification

115.—(1) A person is disqualified from being an auditor of a provincial corporation if the person is not an accountant and if the person is not independent of,

- (a) the corporation and its affiliates; and
- (b) the directors and officers of the corporation and its affiliates.

Idem

(2) For the purposes of this section,

- (a) independence is a question of fact; and
- (b) a person shall be deemed not to be independent if the person or the person's business partner, spouse or child,
 - (i) is a business partner, director, officer or employee of the corporation or any of its affiliates,
 - (ii) is a business partner of any director, officer or employee of the corporation or any of its affiliates,
 - (iii) beneficially owns directly or indirectly or exercises control or direction over 10 per cent

or more of the voting shares of the corporation or any of its affiliates, or

- (iv) has been a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy of the corporation or any of its affiliates within two years of the person's proposed appointment as auditor of the corporation.

(3) No person shall be disqualified from acting as the auditor of a provincial corporation solely on the grounds that the person is a depositor in the corporation. Saving

(4) An auditor who becomes disqualified under this section shall resign forthwith upon becoming aware of the disqualification. Resignation

(5) An interested person may apply to the High Court of Justice for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant. Application to Court

116. A provincial corporation shall, where possible, cause its auditor or one of its auditors to be appointed auditor of any body corporate in which the corporation has invested its funds under section 167, and where such appointment is not possible, the provincial corporation shall inform the Superintendent of the circumstances that prevent the appointment. Auditor appointment for subsidiary

117.—(1) An auditor of a provincial corporation shall make such examination of the financial statements required by this Act and the regulations to be placed before shareholders and of the annual return to be filed with the Superintendent under section 134 as is necessary to enable the auditor to report thereon and the auditor shall report as prescribed and in accordance with generally accepted auditing standards. Examination

(2) A director or an officer of a provincial corporation shall forthwith notify the audit committee and the auditor or the former auditor, if applicable, of any error or misstatement of which the director or officer becomes aware in a financial statement or annual return filed with the Superintendent that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be material. Reporting error

(3) If an auditor or former auditor of a provincial corporation is notified or becomes aware of an error or misstatement in a financial statement or return filed with the Superintendent upon which the auditor or former auditor has reported, and if in the opinion of the auditor or former auditor the error

Idem

or misstatement is material, the auditor or former auditor shall inform each director.

Revised
financial
statements

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall promptly prepare and issue revised financial statements or otherwise inform the shareholders.

Notice to
Superin-
tendent

(5) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a return filed with the Superintendent, the directors shall promptly notify the Superintendent.

Right of
access

(6) Upon the demand of an auditor of a provincial corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such,

(a) information and explanations; and

(b) access to records, documents, books, accounts and vouchers of the corporation and any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

Idem

(7) Upon the demand of the auditor of a provincial corporation, the directors of the corporation shall,

(a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section; and

(b) furnish the information and explanations so obtained to the auditor.

No liability

(8) A person who in good faith makes an oral or written communication under this section shall not be liable in any civil action arising therefrom.

118.—(1) The auditor shall report to the board of directors of the provincial corporation whenever, in the auditor's opinion,

Reports to
board

- (a) there has been any change in the circumstances of the corporation that might materially and adversely affect the financial position of the corporation;
- (b) there has been a contravention of this Act or the regulations;
- (c) there has been a contravention of the *Criminal Code* (Canada); or R.S.C. 1970,
c. C-34
- (d) there has been a contravention of any other law the contravention of which may affect the corporation's ability to carry on or transact business.

(2) The auditor shall make a report under subsection (1) Idem immediately upon becoming aware of a change or contravention described in that subsection.

(3) The auditor shall report to the Superintendent any matter dealt with in a report under subsection (1) which in the opinion of the auditor could affect the well-being of the provincial corporation and has not been corrected or appropriately responded to by the board of directors within a reasonable time.

Notice to
Superin-
tendent

(4) An auditor is not required to make a report under this section unless the auditor becomes aware of the change or contravention described in subsection (1) in the ordinary course of his or her duties as auditor. Exception

119.—(1) The directors of a provincial corporation shall place before each annual meeting of shareholders,

Financial
statements,
etc., to be
given to
shareholders

- (a) financial statements in consolidated form for the year ending on the last day of October, November or December and before the annual meeting, made up of,
 - (i) a statement of income for the year,
 - (ii) a statement of retained earnings, or surplus for the year,
 - (iii) a statement of change in financial position, and

(iv) a balance sheet as at the end of the year,

and, if the corporation has completed a financial year, showing in each case the corresponding figures for the last preceding financial period of the corporation;

- (b) the report of the auditor to the shareholders on the statements referred to in clause (a);
- (c) the financial statement of the corporation in unconsolidated form;
- (d) the financial statement in consolidated form of every subsidiary of the corporation, and such statements may be presented in condensed form; and
- (e) any further information respecting the financial position of the corporation and the results of its operations required by its instrument of incorporation or its by-laws or by this Act or the regulations.

Copy of documents to shareholders

(2) A provincial corporation, not less than twenty-one days before each annual meeting of shareholders unless such period is waived by the shareholders, shall send a copy of the documents referred to in this section to each shareholder, except those who have informed the corporation in writing that they do not wish to receive copies of the documents.

Copy of documents to depositors

(3) A provincial corporation shall mail or deliver without charge a copy of the documents referred to in this section to every depositor of the corporation who in writing requests a copy.

Preparation of financial statements

120. The financial statements required under this Act shall be prepared in accordance with this Act and the regulations and, except as otherwise required by this Act and the regulations, in accordance with generally accepted accounting principles.

Audit committee

121.—(1) The audit committee of a provincial corporation shall meet at least twice each year to review,

- (a) any financial statements distributed to the shareholders;
- (b) the annual returns of the corporation filed with the Superintendent under section 134;

- (c) all reports of the auditor under section 118; and
- (d) any reports or transactions required by the regulations to be reviewed by the audit committee.

(2) In the case of statements and returns that by or under this Act must be approved by the board of directors of a provincial corporation, the audit committee shall report thereon to the board before the approval is given. Idem

(3) The auditor of a provincial corporation shall attend the meetings of the audit committee and the auditor is entitled to be heard at the meetings. Auditor's attendance

(4) The auditor of a corporation, a member of the audit committee or a director may call a meeting of the audit committee at any time. Calling meeting

(5) The auditor of a provincial corporation is entitled to attend and be heard at meetings of the board of directors on matters relating to his or her duties as auditor. Attendance at meetings of board of directors

122.—(1) The financial statements of a provincial corporation shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statements. Approval by directors

(2) One of the directors signing a balance sheet as required by subsection (1) must be a member of the audit committee. Idem

(3) A provincial corporation shall not issue, publish or circulate copies of the financial statements of the provincial corporation referred to in section 119 unless the financial statements are, Publishing, etc., of financial statements

- (a) approved and signed in accordance with subsections (1) and (2); and
- (b) accompanied by the report of the auditor of the corporation.

123.—(1) A provincial corporation that is an offering corporation shall send to each shareholder a copy of an interim financial statement required to be filed under the *Securities Act* and the regulations thereunder. Interim financial statement R.S.O. 1980, c. 466

(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the Idem

date to which it is made up, at the shareholder's latest address as shown on the records of the corporation.

PART VIII

BOOKS, RECORDS AND RETURNS

Records

124.—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any photographic system, any system of mechanical or electronic data processing or any other information storage system and it shall be kept for such period as may be prescribed.

Security of records and availability

(2) A corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded in its records; and
- (b) provide means for making the information recorded in its records available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

Admissibility of records in evidence

(3) The bound or looseleaf book referred to in subsection (1) or, where the record is not kept in a looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein.

False information

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or knowing any information to be untrue, shall,

- (a) record or assist in recording it in a record; or
- (b) make it available in a form referred to in clause (2) (b).

Location of records

125.—(1) Every registered corporation shall keep its instrument of incorporation and its by-laws at its principal place of business or at such place in Ontario other than the principal place of business as the directors designate and the corporation shall maintain at the principal place of business or at the designated place,

- (a) minutes of meetings and resolutions of shareholders;

- (b) a register of directors in which are set out the names and residence addresses, while directors, including the street and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;
- (c) a securities register complying with section 126; and
- (d) a copy of the procedures referred to in section 152.

(2) An extra-provincial corporation that does not have its head office in Ontario shall be deemed to have complied with subsection (1) if it maintains at a place in Ontario designated by the directors a copy of its instrument of incorporation and its by-laws, and a copy of every minute, resolution, record and register referred to in clauses (1) (a), (b) and (c). Idem

(3) In addition to the records described in subsection (1), a provincial corporation shall maintain in Ontario, and a registered extra-provincial corporation shall maintain in Canada, Idem

- (a) adequate accounting records as required by this Act or the regulations;
- (b) records containing minutes of meetings and resolutions of the directors and every committee thereof;
- (c) a record of all investments held by the corporation; and
- (d) copies of all returns to the Superintendent required by this Act or the regulations.

(4) In addition to the records described in subsections (1) and (3), a registered corporation shall maintain in Canada, Idem

- (a) a record of all depositors, their names and addresses as far as is known and the sums deposited by such depositors;
- (b) where the corporation is a trust corporation, full and adequate records relating to the fiduciary activities of the corporation.

126.—(1) A provincial corporation shall maintain a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

Securities
register

- (a) the names, alphabetically arranged of persons who,
- (i) are or have been within six years registered as shareholders of the corporation, the residency of such shareholders, the address including the street and number, if any, of every such person while a holder, and the number and class or series of shares registered in the name of such holder,
 - (ii) are or have been within six years registered as holders of subordinated notes of the corporation, the address including the street and number, if any, of every such person while a holder, and the principal amount of the subordinated notes registered in the name of such holder, or
 - (iii) are or have been within six years registered as holders of warrants of the corporation, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and
- (b) the date and particulars of the issue of each security and warrant.

Transfer register

(2) A provincial corporation shall cause to be kept in Ontario a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out.

Branch transfer registers

(3) A provincial corporation may maintain branch transfer registers at one or more places in Canada.

Transfer agents

127. For each class of securities issued by it, a provincial corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities and warrants of the corporation or any class or classes thereof.

128.—(1) Registration of the transfer of a security or warrant of a provincial corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

Valid registration

(2) Particulars of every transfer of securities and warrants registered in every branch register of transfers shall be recorded in the register of transfers.

Entry in register of transfers

(3) A provincial corporation or a person appointed under section 127 is not required to produce,

Documents not required to be produced

- (a) any security certificate or warrant that is not in registered form; or
- (b) any security certificate or warrant that is in registered form after six years,
 - (i) in the case of a share certificate, from the date of its cancellation,
 - (ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or
 - (iii) in the case of a subordinated note, from the date of cancellation of the note.

129.—(1) The records mentioned in sections 125, 126 and 128 shall, during normal business hours of a corporation, be open to examination by any director.

Open to examination

(2) A registered corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the principal place of business of the corporation or such other place as is authorized under this Part such records as will enable the directors to ascertain the financial position of the corporation.

Records of account at branch

130. A shareholder of a provincial corporation is entitled upon request and without charge to one copy of the instrument of incorporation and the by-laws and the amendments thereto.

Copies

List of
shareholders

131.—(1) Upon payment of a reasonable fee and upon sending to a provincial corporation or its transfer agent the statutory declaration described in subsection (6), any person who is a shareholder or holder of a subordinated note of the corporation, the person's agents or legal representatives and, where the corporation is an offering corporation, any other person, may require the corporation or its transfer agent to furnish within ten days of receipt by the corporation of the statutory declaration a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation.

Idem

(2) The list referred to in subsection (1) when furnished shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental
lists

(3) A person requiring a corporation to supply a list under subsection (1) may, if the person states in the statutory declaration described in subsection (6) that the person requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

- (a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
- (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

Idem

(5) A person requiring a corporation to supply a basic or supplemental list under this section may also require the corporation to include in the list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory
declaration

(6) The statutory declaration referred to in subsection (1) shall state,

- (a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, holder of a subordinated note or any other person referred to in subsection (1);
- (b) if the applicant is a body corporate, its address for service; and
- (c) that the basic list and any supplemental lists shall be used only as permitted under subsection (8).

(7) If the applicant is a body corporate, the statutory declaration described in subsection (6) shall be made by a director or officer of the body corporate. Idem

(8) A list of shareholders obtained under this section shall not be used by any person except in connection with, Use of information

- (a) an effort to influence the voting by shareholders of the corporation;
- (b) an offer to acquire shares of the corporation; or
- (c) any other matter relating to the affairs of the corporation.

132. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities or warrants of a provincial corporation. Trafficking in lists

133. Every registered corporation at the times prescribed shall provide to the Superintendent such financial or other information as may be prescribed. Returns

134.—(1) Every registered corporation shall prepare annually for the information of the Superintendent an annual return, on a consolidated basis and in the prescribed form, outlining the financial condition and affairs of the corporation for the fiscal year of the corporation, and the return shall be filed with the Superintendent within sixty days after the end of the period to which it relates. Annual return

(2) The return referred to in subsection (1) shall include, Idem on an unconsolidated basis, the statement of the corporation and the statement of each of its subsidiaries.

(3) The return referred to in subsection (1) shall have Idem attached to it a report of the auditor, which report shall be prepared in accordance with the regulations.

Idem

(4) The return referred to in subsection (1) shall be accompanied by a copy of a resolution of the directors showing that the return was adopted by them.

Filing of financial statements

135. Every registered corporation shall file with the Superintendent a copy of every statement of a financial nature furnished to its shareholders or the Ontario Securities Commission within five days after the distribution of the statement to the shareholders or its filing with the Ontario Securities Commission.

Filing of corporate changes

136. Every registered corporation shall file with the Superintendent,

- (a) copies of all applications and supporting documents of any nature made under such laws, as may be prescribed, of Canada or of any province or territory of Canada for any change in its instrument of incorporation or registration status and shall also file with the Superintendent a copy of any approval or refusal of such application within seven days of filing or receipt, as the case may be; and
- (b) copies of any changes made in its instrument of incorporation, registration or licence under the laws of Canada or of any province or territory of Canada.

Provision of information

137.—(1) Every registered corporation shall provide to the Trust Companies Association of Canada such financial and statistical information as may be prescribed.

Publication

(2) Where the Trust Companies Association of Canada receives information under subsection (1), it shall report to the public such financial and statistical information as is prescribed at such periods as may be prescribed.

Public file

138.—(1) The Superintendent shall maintain a file on each registered corporation which shall contain such information as may be prescribed.

Idem

(2) Upon payment of the prescribed fee, any person, during usual office hours, may examine the registers referred to in section 30 and the file referred to in subsection (1) and may take extracts therefrom or obtain copies thereof.

PART IX

CONFLICT OF INTEREST

139. For the purposes of this Part, the Superintendent may designate,

- (a) any person to be a restricted party of a registered corporation if the Superintendent is of the opinion that,
 - (i) the person is acting in concert with a restricted party of the corporation to participate in or enter into an investment or other transaction with the corporation that would be prohibited or restricted if entered into with the corporation by the restricted party, or
 - (ii) there exists between the person and the corporation such an interest or relationship as might affect the exercise of the best judgment of the corporation with respect to an investment or other transaction; or
- (b) any shareholder of a registered corporation or of an affiliate of a registered corporation to be a restricted party of the corporation if the Superintendent is of the opinion that the shareholder is acting in concert with one or more other shareholders of the corporation or of an affiliate to control directly or indirectly 10 per cent or more of any class of shares of the registered corporation.

140.—(1) Except as provided in this Part,

Prohibitions,
restricted
parties

- (a) no registered corporation or subsidiary of a registered corporation shall purchase from or lend to a restricted party of the corporation or enter any other transaction with a restricted party of the corporation; and
- (b) no restricted party of a registered corporation shall purchase from or lend to the corporation or any subsidiary of the corporation or enter any other transaction with the corporation or any subsidiary of the corporation.

(2) Except as provided in clause 141 (1) (a), no registered corporation or subsidiary of a registered corporation shall knowingly invest by way of purchase of or loans on the secu-

Idem,
directors

Power to
designate
person as
restricted
party

rity of real estate or personal property that at any time in the period of thirty-six months preceding the date of the advance of any funds by the corporation or its subsidiary was owned by a director or the spouse or child of the director or any relative of the director or spouse who has the same home as the director.

Exception

R.S.O. 1980,
c. 466

(3) Subsection (2) does not apply where the investment is a purchase of or a loan on the security of securities, as defined in section 1 of the *Securities Act*, for which there is a published market, as defined in section 88 of that Act.

Idem

(4) This Part does not apply so as to prevent the payment of directors fees of the registered corporation or of a subsidiary of the registered corporation if the fees have been approved by the shareholders of the registered corporation.

Permitted
transactions,
board
approval

141.—(1) Subject to the prior approval of its board of directors of the registered corporation, a registered corporation or a subsidiary of a registered corporation may,

- (a) make a loan to any director, officer or employee of the corporation or to the spouse or any child of a director, officer or employee of the corporation on the security of the residence of the person to whom the loan is made if,
 - (i) the loan qualifies as an investment under clause 160 (1) (a),
 - (ii) the amount of the loan does not exceed 0.5 per cent of the capital base of the corporation, and
 - (iii) in the case of a director who is not an employee or officer of the corporation or his or her spouse or child, the terms of the loan are no more favourable than those offered by the corporation in the ordinary course of business;
- (b) make a personal loan to any officer or employee of the corporation or to the spouse or any child of an officer or employee of the corporation if the loan qualifies as an investment under clause 160 (2) (b);
- (c) enter into written contracts with any restricted party for the provision of management services to or by the corporation or subsidiary so long as,

- (i) the consideration is at or exceeds competitive and fair rates where the services are provided by the corporation or the subsidiary and is otherwise reasonable for the services provided, and
 - (ii) the consideration does not exceed competitive and fair rates where the services are provided to the corporation or the subsidiary and is otherwise not unreasonable for the services provided;
- (d) enter into a written lease of real estate or personal property with any restricted party to the registered corporation or the subsidiary for its own use in carrying out its business, so long as,
- (i) the rent does not exceed fair rental value,
 - (ii) the term of the lease and all renewals does not exceed five years, and
 - (iii) the terms of the lease are otherwise competitive and not unreasonable;
- (e) enter into written contracts with any restricted party for pension and benefit plans and other reasonable commitments incidental to the employment of officers and employees of the corporation or the subsidiary;
- (f) enter into employment contracts with officers or future officers of the corporation or the subsidiary;
- (g) enter into written contracts with any restricted party for the purchase of goods or services, other than management services, used or required by the corporation or the subsidiary in carrying on its business, so long as the price paid for such goods or services is competitive and at market value or fair rates, supported by appropriate documentation of such value or rates; and
- (h) enter into such investments or other transactions as may be prescribed.

(2) Notwithstanding clause (1) (a) or (b), a registered corporation may make a loan to an employee of the corporation who is not a director or officer of the corporation or to his or her spouse or child without obtaining the approval of the

Loans to
employees.
board
approval not
required

board of directors if the amount of the loan does not exceed \$100,000 and there is compliance with subclauses (1) (a) (i) and (ii) or clause (1) (b), as the case may be.

Other
permitted
transactions,
board
approval
not required

(3) A registered corporation or a subsidiary of a registered corporation, without the approval of the board of directors of the registered corporation, may enter into,

- (a) employment contracts with persons who are not directors or officers of the corporation or the subsidiary;
- (b) transactions with a restricted party which involve nominal or immaterial outlays or expenditures to the public by the corporation or the subsidiary;
- (c) transactions with a restricted party for the sale of goods or the provision of services normally provided to the public by the corporation or the subsidiary in the ordinary course of business so long as the prices and rates charged by the corporation or subsidiary are competitive and at fair rates; and
- (d) such investments or other transactions as may be prescribed.

Onus on
corporation

142. The onus of demonstrating that prices and rates are competitive or at fair rates, or that services are reasonable or that expenditures are immaterial, as the case may be, is upon the registered corporation or its subsidiary and the restricted party.

Trusts and
estates

143.—(1) A registered trust corporation shall not participate in, or enter into, any investment or other transaction with a restricted party using funds held by the corporation as a fiduciary, other than funds held as deposits.

Idem

(2) Except as provided in this section, a registered trust corporation shall not invest funds held by the registered corporation as a fiduciary in any class of shares of the corporation or its affiliates.

Idem

(3) A registered trust corporation may act as a fiduciary of one or more trusts or estates that owns shares of the corporation or its affiliates if the shares were acquired before the corporation assumed responsibility as a fiduciary.

Idem

(4) Where a registered trust corporation acts as a fiduciary of one or more trusts or estates holding any class of shares of the corporation or its affiliates, the shares shall not be sold or

voted or an offer for the shares refused except with the approval of the board of directors and the reasons for such actions shall be entered in the minutes of the board of directors.

(5) Each year, the board of directors shall approve a report ^{Idem} on the shares of the registered corporation or its affiliates held by the corporation as fiduciary and the reasons for the retention of the shares.

(6) Nothing in this section authorizes a registered trust corporation to perform any act as a fiduciary which is otherwise prohibited. ^{Idem}

(7) Nothing in this section prevents a registered trust corporation from fulfilling a specific direction or permission of a court or of an instrument creating a fiduciary duty that the corporation should or may purchase or sell shares of the corporation or its affiliates or participate in, or enter into, any investment or other transaction with a restricted party but a general power to invest in the discretion of the fiduciary shall not be considered to be a specific direction or permission for the purposes of this subsection. ^{Idem}

144.—(1) Upon the application of a registered corporation filed with the Superintendent, the Lieutenant Governor in Council may consent to any investment or other transaction set out in this Part, with a restricted party if, in the opinion of the Lieutenant Governor in Council, the consent is necessary to the well-being of the registered corporation and the consent may be subject to such terms and conditions as are set out in the consent. ^{Exemption}

(2) Subsection (1) does not apply so as to permit the giving ^{Idem} of consent for an investment or other transaction that is prohibited by section 143.

145.—(1) A restricted party who is a party to an investment or other transaction with a registered corporation or a subsidiary of a registered corporation or to a proposed investment or other transaction with the corporation or the subsidiary for which the approval of the board of directors of the corporation is required, whether under this Act or otherwise, shall disclose in writing to the corporation the nature of the restricted party's interest. ^{Disclosure of interest}

(2) A director or officer of a registered corporation, with respect to an investment or other transaction with the corporation or a subsidiary of the corporation or with respect to a ^{Disclosure of cross-directorship}

proposed investment or other transaction with the corporation or the subsidiary, shall disclose the nature of the interest if,

- (a) he or she is a director or an officer of a body corporate that is a party to any investment or other transaction of the corporation or the subsidiary or a proposed investment or other transaction of the corporation or subsidiary; or
- (b) he or she holds 10 per cent or more of the shares of a body corporate described in clause (a).

Disclosure by director

(3) The disclosure required by subsection (1) or (2) shall be entered in the minutes of the board of directors and shall be made, in the case of a director,

- (a) at the meeting at which a proposed investment or other transaction is first considered;
- (b) if the director was not then interested in a proposed investment or other transaction, at the first meeting after becoming interested;
- (c) if the director becomes interested after an investment or other transaction is entered into, at the first meeting after becoming interested; or
- (d) if a person who is interested in an investment or other transaction later becomes a director, at the first meeting after becoming a director.

Disclosure by others

(4) The disclosure required by subsection (1) or (2) shall be made, in the case of a restricted party who is not a director,

- (a) forthwith after becoming aware that the investment or other transaction or proposed investment or other transaction is to be considered or has been considered at a meeting of directors;
- (b) if the restricted party becomes interested after an investment or other transaction is entered into, forthwith after becoming interested; or
- (c) if a person who is interested in an investment or other transaction later becomes a restricted party, forthwith after becoming a restricted party.

Director not to vote

(5) A director required by subsection (1) or (2) to make a disclosure shall not take part in the discussion or vote on any resolution to approve a loan or investment or transaction in

relation to which disclosure is required under subsection (1) or (2) and the director shall not be present at any meeting of the board while it is dealing with the matter.

(6) A director referred to in subsection (5) shall not attempt in any way to influence the voting on any resolution to approve an investment or other transaction.

Director
not to use
influence

146.—(1) Every registered corporation shall establish and its board of directors shall approve written review and approval procedures to be followed by the corporation to ensure compliance with this Part, and the board of directors shall review the procedures so established at least once each year.

Procedures

(2) The procedures referred to in subsection (1) shall be developed by the investment committee of the board of directors and shall be reviewed at least twice each year by the investment committee.

Idem

147. Where a restricted party, a registered corporation or any subsidiary of a registered corporation fails to comply with this Part, and where an investment or other transaction which is prohibited by this Part takes place, the corporation or the Superintendent may apply to the High Court of Justice for an order setting aside the investment or other transaction and directing that the restricted party account to the registered corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit, including compensation for the loss or damage suffered by the corporation and punitive or exemplary damages from the restricted party.

Voidable
contract

148.—(1) Where an investment or other transaction that is prohibited under this Part takes place, a registered corporation or the Superintendent may apply to the High Court of Justice for an order that each person who participated in or facilitated such investment or other transaction made in contravention of this Part, pay to the corporation on a joint and several basis,

Derivative
action

- (a) the damages suffered;
- (b) the face value of the investment; or
- (c) the amount expended by the corporation in the transaction.

(2) Subsection (1) does not apply to a person who is not a director, unless the person knew or ought reasonably to have

Saving

known that the investment or other transaction was made in contravention of this Part.

Reporting by auditor

149. An auditor shall promptly report to the board of directors and the Superintendent any breach of any provision of this Part of which he or she is aware or of which he or she is made aware under section 150 and, if the board of directors does not act to rectify the breach within a reasonable period of time, the auditor shall promptly report the breach to the Superintendent.

Reporting by others

150.—(1) Any person undertaking professional services for the registered corporation, other than an auditor under section 149, who in providing the professional services becomes aware of a breach of the provisions of this Part shall promptly report the breach to the board of directors and the auditor of the corporation.

Professional advice

(2) No person undertaking professional services for a registered corporation shall advise the registered corporation or perform services for the corporation in an investment or other transaction in or to which the person is a party or has a direct or indirect beneficial interest.

Solicitor-client privilege

(3) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

No liability

151. A person who in good faith makes a report under subsection 150 (1) shall not be liable in any civil action arising therefrom.

PART X

BUSINESS AND INVESTMENTS

Prudent investment standards

152.—(1) Every registered corporation shall adhere to prudent investment standards in making investment decisions and in managing its total investments.

Idem

(2) For the purposes of this Act, prudent investment standards are those which a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments, without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

Procedures

(3) Every registered corporation shall establish written procedures to ensure that prudent investment standards are applied by the corporation in making investment decisions and in managing the total investments of the corporation.

(4) The procedures referred to in subsection (3) shall be developed by the investment committee of the board of directors of the corporation and shall be reviewed at least twice each year by the investment committee.

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors.

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and the board, upon receipt of any recommendation from the investment committee, shall review such procedures and make such changes as may be necessary.

153.—(1) A registered provincial loan corporation and any other registered loan corporation that has capacity to do so may, in a debtor and creditor relationship for the purposes of investment, receive money,

- (a) repayable on demand or after notice; or
- (b) repayable upon the expiry of a fixed term,

and the corporation may issue debentures or other evidences of indebtedness in respect thereof, appropriate to the debtor and creditor relationship created thereby.

(2) A registered provincial trust corporation and any other registered trust corporation that has capacity to do so may, for the purpose of investment, receive money,

- (a) repayable upon demand or after notice; or
- (b) repayable upon the expiry of a fixed term,

and the corporation may issue investment certificates or other evidences of the money received, appropriate to the trust relationship created thereby.

(3) Money received by a trust corporation under subsection (2) shall be deemed to be held by it in trust for its depositors and it shall be deemed to guarantee the repayment thereof.

(4) Notwithstanding subsection (3), a trust corporation may retain the interest and profit resulting from the investment of money received by it under subsection (2) in excess of the amount of interest payable to its depositors in respect thereof.

Development
of
procedures

Idem

Approval by
board

Deposits,
loan
corporations

Deposits,
trust
corporations

Idem

Idem

Idem

(5) Every trust corporation receiving money as authorized by subsection (2) shall earmark and set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection, "cash" includes moneys on deposit and "securities" includes investments authorized under sections 160 to 164 and 168.

Idem

(6) An investment certificate or other evidence of money received issued by a trust corporation shall indicate in a clearly visible manner that it is guaranteed only as against the assets of the corporation earmarked and set aside under subsection (5).

Deposit insurance

154.—(1) No registered corporation shall exercise the powers mentioned in section 153 unless it is a member of the Canada Deposit Insurance Corporation or its deposits are insured by some other public agency approved by the Superintendent to the maximum amounts permitted by the agency.

Idem

(2) A provincial corporation, with the approval of the Superintendent, may borrow money from the Canada Deposit Insurance Corporation or other similar public agencies approved by the Superintendent, and, for such purposes, the corporation may mortgage thereto the cash and securities earmarked and set aside under section 153.

Borrowing multiples, limits

155.—(1) Subject to subsections (2) and (4), the total amount,

- (a) received as deposits and otherwise borrowed by a registered loan corporation; and
- (b) received as deposits and borrowed by a registered trust corporation,

shall not exceed, at any time, an amount equal to ten times its capital base.

Exclusions from calculation

(2) Amounts borrowed by a registered corporation by way of subordinated notes and by way of mortgages on real estate owned by the corporation shall not be included in a determination of a total amount under subsection (1).

Increase in borrowing multiple

(3) On the application of a registered corporation, the Superintendent, by order and subject to such terms and conditions as may be set out in the order, may increase the total amount that may be borrowed or received by the corporation to an amount equal to such multiplier in excess of ten times but not exceeding twenty-five times its capital base as may be

set out in the order and subsections (1) and (2) shall be deemed to apply to such increased amount, substituting the new multiplier for "ten" in subsection (1).

(4) A registered corporation may exceed, at any time, the limit on its borrowing multiple as set out in subsection (1) or as set out in an order under subsection (3) if the board of directors has approved, by a resolution passed on an annual basis, the exceeding of the limit and so long as the amount by which the limit is exceeded is invested in a manner prescribed by the regulations.

Borrowing over limit

(5) No order shall be made under subsection (3) unless the application of the corporation is accompanied by a certified copy of a special resolution of the corporation supporting the increase requested under subsection (3).

Copy of special resolution

(6) At least once each year, the Superintendent shall review the borrowing multiple authorized for each corporation to determine if the borrowing multiple is appropriate.

Duty of Superintendent

156.—(1) A registered corporation may borrow money by way of the issue of notes having a denomination of at least \$100,000.

Subordinated notes

(2) A note issued under this section shall be known as a subordinated note and the following provisions apply to every such note:

Idem

1. A subordinated note is not a deposit of the issuing corporation and is not insured by the Canada Deposit Insurance Corporation or any similar public agency.
2. In the event of the insolvency or winding up of the corporation, the indebtedness evidenced by each subordinated note ranks equally with the indebtedness evidenced by all other subordinated notes of the corporation and is subordinated in right of payment to all other indebtedness of the corporation.
3. Every subordinated note shall be evidenced by a certificate in a form approved for the corporation by the Superintendent and containing a statement of the terms set out in paragraphs 1 and 2 and such other information as the Superintendent, in approving the form, may require.

4. A subordinated note shall not be issued by a registered corporation except on application to its secretary.

Idem

(3) No registered corporation or person acting on its behalf, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the corporation, shall refer to the note otherwise than as a subordinated note and the registered corporation or person, as the case may be, shall indicate clearly therein that the subordinated note is not a deposit that is insured by the Canada Deposit Insurance Corporation or other similar public agency.

Pledging for liquidity reasons

157.—(1) A registered corporation may pledge any of its own assets as security for a debt obligation of the corporation if the debt obligation is issued in respect of money borrowed to enable the corporation to meet short term requirements for liquid funds arising from its operations and if the total debt obligation of the corporation in relation to which assets are so pledged does not exceed 50 per cent of the capital base.

Exception

(2) Subsection (1) does not apply so as to prevent a pledge of assets to the Government of Canada with respect to the sale of Canada Savings Bonds or such other transactions as may be named in the regulations.

Notice to Superintendent

(3) A corporation pledging any asset under subsection (1) shall promptly notify the Superintendent in writing of the amount so secured and of the nature of the asset pledged as security.

Borrowing without security

(4) A registered trust corporation shall not borrow money, except from a bank or a registered corporation, unless,

(a) it is borrowing by way of subordinated notes; or

(b) it is borrowing money as authorized by subsection (1).

Receiver prohibited

(5) Any agreement under which a creditor of a registered corporation is authorized by reason of the failure of the corporation to make payment in respect of a debt obligation to appoint a receiver or acquire control of the corporation or of any asset of the corporation, other than an asset pledged as security under subsection (1) or (2), is void.

Pledge to restricted party prohibited

(6) A registered corporation shall not pledge any of its assets to a restricted party of the corporation.

158. Every registered corporation, at all times, shall maintain liquid assets in such form and amounts and in such manner as is prescribed.

159.—(1) Except as provided in this Act, no registered corporation shall participate in or enter into any investment or pledge any of its assets.

(2) No registered corporation shall purchase directly or indirectly,

- (a) shares or subordinated notes of any other corporation except under section 28 or clause 167 (1) (c) or (d); or
- (b) shares of any bank.

160.—(1) A registered corporation may invest by way of purchase of or loans on the security of,

(a) mortgages upon improved real estate in Canada so long as the amount paid for or advanced on any mortgage, together with the amount of indebtedness under any mortgage, on the real estate ranking equally with or prior to the mortgage, in which the purchase or loan is made, does not exceed the lending value of the real estate to which the mortgage relates unless,

(i) the loan for which the mortgage is security is approved or insured under the *National Housing Act* (Canada), or

(ii) the excess is guaranteed or insured through an agency of the Government of Canada or of a province of Canada or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or the *Insurance Act* or similar legislation of any province or territory of Canada;

(b) debentures, bonds or other evidences of indebtedness,

(i) of or guaranteed as to principal and interest by the Government of Canada or of a province of Canada,

Liquidity

Restriction
on
investments,
etc.Shares of
financial
institutionEligible
investments

mortgages

R.S.C. 1970,
c. N-10R.S.C. 1970,
cc. I-15, I-16R.S.O. 1980,
c. 218debentures,
bonds

- (ii) of or guaranteed by a foreign country or state forming part of such foreign country where the interest on the securities of such foreign country or state has been paid regularly when due for the previous ten years,
- (iii) of any municipality in Canada or school board in Canada or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality or school board for the jurisdiction in which the property is situated,
- (iv) of any company that are secured by a mortgage to a trust corporation in Canada, other than the investing corporation or its affiliate, either singly or jointly with another trustee upon improved real estate of such company or other assets of such company of the classes in clause (a) or subclause (i), (ii), (iii) or (v),
- (v) of a company incorporated in Canada that are secured by the assignment to a trust corporation in Canada, other than the investing corporation or its affiliate, of payments that the Government of Canada or of a province of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity,

but if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral;

- | | |
|------------------|---|
| idem | (c) bonds or debentures of or guaranteed by any company if the company has been in <i>bona fide</i> operation for at least five years; |
| preferred shares | (d) the preferred shares of a company, where, at the date of the purchase, the common shares of the company are authorized as investments by clause (e) or, if the investment is by way of loan, where the amount of loan does not exceed, at any time, the market value of the security given as collateral; |

- (e) the fully paid common shares of a company that in a period of five fiscal years that ended less than one year before the date of the purchase or loan has been in *bona fide* operation for at least five years, but if the investment is by way of a loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral; common shares

- (f) mortgages or assignments of life insurance policies if at the date of the loan such policy has an ascertained cash surrender value admitted by the insurer at least equal to the amount of the loan; life insurance policy

- (g) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank but, if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral; deposits in banks

- (h) deposits in a registered corporation but, if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral; and deposits in registered corporation

- (i) deposits in a credit union or caisse populaire but, if the investment is by way of loan, the amount of the loan shall not exceed at any time the market value of the security given as collateral. deposits in credit unions

(2) A registered corporation may invest,

- (a) if designated as a bank or a lender, as the case may be, under the *Canada Student Loans Act*, the *Farm Improvement Loans Act* (Canada), the *Fisheries Improvement Loans Act* (Canada) or the *Small Businesses Loans Act* (Canada), by lending money by way of guaranteed loans under and in accordance with the Acts for which it has been designated; Government guaranteed loans, personal loans, commercial lending
R.S.C. 1970, cc. S-17, F-3, F-22, S-10

- (b) by making personal loans to any individual, with or without security, not exceeding those amounts as may be prescribed; and

- (c) by making loans for business or commercial purposes not authorized by any other provision of this Act payable on demand or in less than one year to companies, partnerships, proprietorships and joint ventures.

Leases and
conditional
sale
agreements

(3) A registered corporation may invest by way of loan where the evidence of the investment is a lease of personal property or an instrument similar to a lease of personal property or a conditional sales contract but only if the investment is for a fixed term and,

- (a) the lessee or conditional purchaser is the Government of Canada or of a province of Canada or any agency thereof or any municipality in Canada; or
- (b) the lessee or conditional purchaser is a company incorporated in Canada or is a subsidiary of a company incorporated in Canada and, at the date of the investment, the company had been in *bona fide* operation at least five years.

Restrictions
on personal
loans,
commercial
lending,
leases
and
conditional
sales
agreements

- (4) A registered corporation shall not make investments,
 - (a) under clause (2) (b) or (c) or clause (3) (b) unless,
 - (i) it has received approval of the Superintendent to make such investments, and
 - (ii) it complies with the terms and conditions, if any, imposed on the corporation with respect to such investments;
 - (b) under clause (2) (b) unless the aggregate total of such investments is 20 per cent or less of the total assets of the corporation or such lower percentage as the Superintendent may approve;
 - (c) under clause (2) (c) unless,
 - (i) the capital base of the corporation is equal to or exceeds \$15,000,000, and
 - (ii) the aggregate total of such investments is 10 per cent or less of the total assets of the corporation or such lower percentage as the Superintendent may approve; and
 - (d) under clause (3) (b) unless,
 - (i) the capital base of the corporation is equal to or exceeds \$15,000,000, and
 - (ii) the aggregate total of such investments is 10 per cent or less of the total assets of the cor-

poration or such lower percentage as the Superintendent may approve.

161.—(1) Subject to subsection (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada for the production of income.

Real estate
for the
production
of income

(2) The total book value of all investments in real estate under this section and section 162, whether in a corporation or in a subsidiary of the corporation, shall not exceed 10 per cent of the total assets of the corporation and not more than 1 per cent of the total assets of the corporation may be invested in any one parcel of real estate purchased under this section.

Idem

162.—(1) Subject to subsection 161 (2), a registered corporation, by way of purchase, may invest in improved real estate in Canada that is or is to be occupied by the corporation for its own use.

Real estate
for own use

(2) For the purposes of this section, real estate purchased by a subsidiary of a registered corporation that is occupied and used by the subsidiary for its own purposes shall be deemed to be real estate purchased by the registered corporation under this section.

Idem

(3) The total book value of the investments in real estate occupied by a registered corporation and its subsidiaries under this section whether in the corporation or in a subsidiary shall not exceed an amount equal to the capital base of the corporation.

Restriction

163. The book value of real estate that has been mortgaged to a corporation or any of its subsidiaries and that has been acquired by the corporation or the subsidiary to protect its investment and of real estate that has been conveyed to it or any of its subsidiaries in satisfaction of debts previously contracted in the course of the corporation's business or that of the subsidiary need not be included in determining total book value of real estate for the purposes of subsection 161 (2) or 162 (3).

Exclusion of
foreclosed
real
estate from
determination
of
total book
value

164.—(1) A registered corporation, by way of purchase or loan, may make investments not authorized by section 160, 161 or 162 if the investment is not prohibited under any other provision of this Act so long as the total book value of investments made under this section and held by the corporation does not exceed 5 per cent of the total assets of the corporation.

"Open
basket"

(2) Subsection (1) does not apply so as to,

Idem

- (a) enlarge the authority conferred by this Act to invest in mortgages, or to lend on the security of real estate; or
- (b) affect the limit of 10 per cent of the total assets that may be invested in real estate under section 161.

Idem

(3) Where a corporation has received the approval of the Superintendent to make investments under clause 160 (2) (b) or clause 160 (2) (c) or clause 160 (3) (b), the corporation shall not make any such investments under subsection (1).

Investment
limits

165.—(1) Notwithstanding any other provision of this Act, a corporation shall maintain at all times at least 50 per cent of its total assets, excluding assets of subsidiaries, in,

- (a) bonds, debentures or other evidences of indebtedness,
 - (i) of or guaranteed by the Government of Canada or any province of Canada,
 - (ii) of any municipality or school board in Canada, or guaranteed by any municipality in Canada, or secured by rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality or school board for the jurisdiction in which such property is situated;
- (b) first mortgages, upon real estate in Canada;
- (c) bonds, debentures or other evidences of indebtedness of a company that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity;
- (d) deposits in or receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by a bank;
- (e) deposits in a registered corporation;
- (f) bonds or debentures of banks; or

- (g) any combination of cash and the investments referred to in clauses (b) to (e).

(2) Investments by a registered corporation in third and subsequent mortgages shall be limited to 2 per cent of the total assets of the corporation.

Third and
subsequent
mortgages

(3) For the purposes of subsection (2), an investment in a third or subsequent mortgage by a subsidiary of a corporation shall be deemed to be an investment in the mortgage by the corporation.

Idem

(4) A registered corporation shall not make an investment in shares, bonds or debentures of a company if, after the investment, the corporation will hold shares, bonds and debentures of the company carried on the corporation's books, in aggregate, at more than 25 per cent of its total assets.

Shares, etc.

(5) For the purposes of subsection (4), an investment in shares, bonds or debentures by a subsidiary of a corporation, other than a mutual fund subsidiary of the corporation, shall be deemed to be an investment by the corporation.

Idem

166. No corporation shall directly or indirectly,

- (a) except as to securities issued or guaranteed by the Government of Canada, including mortgages insured under the *National Housing Act* (Canada), or the government of any province of Canada or by any municipality in Ontario, invest, by way of purchase from or loans to persons that to the knowledge of the corporation are related to one another, an amount exceeding 1 per cent of the corporation's total assets; or
- (b) make any investment the effect of which will be that the corporation will hold more than 10 per cent of the voting shares of any one body corporate other than a subsidiary of the corporation.

Restrictions
on amount of
single
investments

R.S.C. 1970,
c. N-10

167.—(1) Subject to such terms and conditions concerning subsidiaries as may be prescribed, a registered corporation may establish or acquire as a subsidiary,

Investment in
subsidiaries

- (a) any company incorporated in Canada to acquire, hold, maintain, improve, lease or manage real estate or leaseholds or to act as agent in the sale or purchase of real estate or leaseholds;

- (b) with the prior approval of the Superintendent, any company incorporated other than in Canada to acquire, hold, maintain, lease or manage real estate or leaseholds or act as agent in the sale or purchase of real estate or leaseholds;
- (c) with the prior approval of the Superintendent and subject to such terms and conditions as the Superintendent may impose or as may be prescribed, any company to carry on any other business activity reasonably ancillary to the business of a corporation;
- (d) a loan corporation in Canada, if the investing corporation is a trust corporation; and
- (e) a trust corporation in Canada, if the investing corporation is a loan corporation.

Prohibition (2) A subsidiary described in subsection (1) shall not invest its funds except as provided for registered corporations in this Act.

Idem (3) Subsection (2) does not apply to a subsidiary described in clause (1) (b) so long as the corporation satisfies all terms and conditions imposed by the Superintendent or the regulations.

Idem (4) A registered corporation shall not make an investment in or guarantee any obligation of a subsidiary of the corporation if, after the making of the investment or the giving of the guarantee, the total book value of all such investments and guarantees will exceed 5 per cent of the corporation's total assets.

Idem (5) Subsection (4) does not apply to investments in or guarantees of the obligations of a subsidiary described in clause (1) (c) or (d).

Other investments authorized **168.** The Lieutenant Governor in Council may authorize the acceptance by a registered corporation of bonds, notes, shares, debentures or other assets not fulfilling the requirements of this Act,

- (a) obtained in payment or part payment for securities sold by the corporation;
- (b) obtained under a *bona fide* arrangement for the reorganization of a body corporate whose securities were previously owned by the corporation;

- (c) obtained under an amalgamation with another body corporate of the body corporate whose securities were previously owned by the corporation;
- (d) obtained for the *bona fide* purpose of protecting investments of the corporation;
- (e) obtained by virtue of the purchase by the corporation of the assets of another corporation; or
- (f) obtained by virtue of realizing a security for a loan where the security is shares in a body corporate and the effect of realizing such security is that a registered corporation shall hold more than 10 per cent of the voting shares in any one body corporate,

but the bonds, notes, shares or debentures or other assets whose acceptance is so authorized shall be sold and disposed of within five years after the acquisition thereof or, within such further time not exceeding one year as the Lieutenant Governor in Council, on the report of the Superintendent, may fix and determine, unless it can be shown to the satisfaction of the Superintendent that the bonds, notes, shares, debentures or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

169. A registered corporation may take real or personal property as collateral security for any advance or for any debt due to the corporation in addition to any security required by or under this Act.

Personal
property as
collateral

170. A single loan that is secured by two or more assets or classes of assets that would, but for this section, not be an investment of the corporation permitted by or under this Act may be divided into different amounts and considered as separate loans with respect to each asset or class of assets for the purposes of determining whether the loan is permitted by or under this Act.

Allocation of
security

171.—(1) Notwithstanding this or any other Act, every provincial trust corporation and any other registered trust corporation that has capacity to do so may, unless the trust instrument otherwise directs, invest trust money in one or more common trust funds of the trust corporation and, where trust money is held by the trust corporation as a co-trustee, the investment thereof in a common trust fund may be made by the trust corporation with the consent of its co-trustees.

Common
trust
funds
authorized

Exception

R.S.C. 1952,
c. 146

(2) A common trust fund authorized by subsection (1) shall not include any money in relation to a trust established exclusively for savings plans registered under the *Income Tax Act* (Canada).

Idem

(3) No common trust fund shall be established or operated except in the prescribed manner.

Passing of
accounts

(4) A trust corporation may, at any time, and shall, when required in writing by the Superintendent so to do under subsection (5), file and pass an account of its dealings with respect to a common trust fund in the surrogate court having jurisdiction in the place in which the fund is being administered, and the court, on the passing of the account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

When
account
final

(5) An account filed with the Superintendent in accordance with the regulations, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account, unless within six months after the date upon which the account is so filed, the Superintendent requires in writing that the account be filed and passed in the surrogate court.

Accounting
only
necessary
under this
section or
regulations

(6) Notwithstanding any other Act or law, a trust corporation shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Time and
place for
passing of
account

(7) Upon the filing of an account under this section, the court shall fix a time and place for the passing of the account, and the trust corporation shall cause a written notice of the appointment and a copy of the account to be served upon the Superintendent at least fourteen days before the date fixed for the passing, and the trust corporation shall not be required or give any other notice of the appointment.

Form of
account

(8) For the purposes of an accounting under this section, an account may be filed in the form of audited accounts filed with the Superintendent in accordance with the regulations.

Superin-
tendent
to represent
persons
having
interest in
fund

(9) Upon the passing of an account under this section, the Superintendent shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right, at the person's own expense, to appear personally or to be separately represented.

(10) Where an account filed under this section has been approved by the surrogate court, the approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account.

(11) The costs of passing an account under this section shall be charged to principal and income of the common trust fund in such proportions as the surrogate court considers proper.

172. A registered trust corporation that administers, promotes or operates a mutual fund to which the *Securities Act* applies or that has a subsidiary that administers, promotes or operates such a mutual fund shall file with the Superintendent proof of the fund's acceptability to the Ontario Securities Commission within thirty days of receiving notice from the Commission of the fund's acceptability.

173.—(1) The liability of a registered trust corporation to persons interested in an estate held by the trust corporation as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee is the same as if the estate had been held by a private person in the like capacity, and the corporation's powers are the same.

(2) Where a registered trust corporation is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the corporation being accepted as a trust corporation for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the corporation, appoint the corporation to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the corporation probate of any will in which the corporation is named as an executor.

(3) A registered trust corporation approved by the Lieutenant Governor in Council under subsection (2),

- (a) may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee;
- (b) may be appointed to any of the offices mentioned in subsection (2) jointly with another person; and
- (c) the appointment may be made whether the trustee is required under a deed, will or document creating

Approval of court

Costs

Mutual funds
R.S.O. 1980,
c. 466

Extent of liability

Approval of the corporation as executor, etc.

Appointment as trustee

R.S.O. 1980,
c. 512

Security not
required

Trusts

Sufficient
discharge

Application
of
money paid

Appointment
of
Superin-
tendent

Appointment
of
Director

Appeal
panels

Composition

Secretary

a trust or whether the appointment is under the *Trustee Act* or otherwise.

(4) Notwithstanding any rule, practice or statutory provision, it is not necessary for a trust corporation approved under subsection (2) to give any security for the due performance of its duty as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless so ordered by a court.

174.—(1) A registered corporation is not bound to see to the execution of any trust, whether express, implied or constructive, other than a trust to which the corporation is a party, to which any of its deposits are subject.

(2) The receipt of the person in whose name any deposit stands in the books of the corporation to which subsection (1) applies is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such deposit stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

(3) A corporation is not bound to see to the application of any money paid upon a receipt under subsection (2).

PART XI

ADMINISTRATION

175.—(1) The Lieutenant Governor in Council shall appoint an officer of the Ministry to be the Superintendent of Deposit Institutions who shall carry out the duties and exercise the powers of the Superintendent under this Act.

(2) The Superintendent may appoint an officer of the Ministry to be the Director to carry out the duties and exercise the powers of the Director under this Act.

176.—(1) When an appeal is requested under this Act, the Minister shall appoint a panel to hear the appeal.

(2) An appeal panel shall consist of two persons who are not public servants and the Superintendent.

(3) The Superintendent shall act as secretary of every appeal panel.

(4) In appointing an appeal panel, the Minister shall name one of the persons who is not a public servant to be the chairman of the panel. Chairman

(5) No individual shall be disqualified from acting as a member of an appeal panel solely on the grounds that he or she is a depositor in the corporation which is the subject of the proceedings before the panel. Idem

(6) The members of an appeal panel, other than the Superintendent, shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. Remuneration

(7) Section 8 of the *Ministry of Consumer and Commercial Relations Act* applies to members of an appeal panel.

Application
of
R.S.O. 1980,
c. 274

No grants or
gratuities to
Ministry
officials

177.—(1) No officer or employee of the Ministry performing duties or exercising powers under this Act shall accept or receive, directly or indirectly, any grant or gratuity from a corporation or any affiliate of a corporation or from any director, officer, employee or agent of a corporation or affiliate of a corporation and no corporation, director, officer, employee or agent of a corporation or any affiliate of a corporation shall make or give, directly or indirectly, any such grant or gratuity.

(2) No officer or employee of the Ministry performing duties or exercising powers under this Act shall hold any shares of any corporation. Interest as
shareholder

178. The Superintendent and Director may, for the purposes of the administration and enforcement of this Act and the regulations, act outside Ontario as if they were acting inside Ontario. Capacity
outside
Ontario

179.—(1) Records required by this Act to be prepared and maintained by the Superintendent or Director may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system or mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time. Records

(2) When records maintained by the Superintendent or Director are prepared and maintained other than in written form, Admission as
evidence

(a) the Superintendent or Director, as the case may be, shall furnish any copy required to be furnished in intelligible written form; and

(b) a report reproduced from those records, if it is certified by the Superintendent or Director, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Idem

(3) Neither the Superintendent nor the Director shall be required to produce any document where a copy of the document is furnished in compliance with clause (2) (a).

Power to require evidence

180.—(1) In pursuance of his or her duties under this Act, the Superintendent or Director may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Employment of stenographer

(2) The evidence and proceedings in any matter before the Superintendent or Director may be reported by a stenographer who has taken an oath before the Superintendent or Director faithfully to report the same.

Examinations, audits and inspections, general

181.—(1) It is a condition of the registration of a corporation that it facilitate examinations, audits and inspections under this Act.

Material to be furnished

(2) For the purpose of an examination, audit or inspection under this Act, the registered corporation and its subsidiaries shall prepare and submit to the person conducting the examination, audit or inspection such statements or returns with respect to its business, finances or other affairs, in addition to the statements or returns mentioned in this Act, as the Superintendent or Director may require, and the officers, agents and servants of the corporation and its subsidiaries shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Production of books

(3) In order to facilitate an examination, audit or inspection of the books and records of a registered corporation, the corporation and its subsidiaries may be required by the Superintendent or the Director to produce the books and records at the principal place of business of the corporation in Ontario, or at such other convenient place as the Superintendent or Director may direct.

Expense of further inspection

(4) On the direction of the Superintendent or Director, where an examination, audit or inspection of a corporation or a subsidiary of a corporation is made at an office situate outside Ontario, the corporation shall pay the costs and expenses in connection with such examination, audit or inspection.

182.—(1) Once each year or during such other period as the Superintendent may consider appropriate for a particular corporation, the Superintendent shall examine or cause a person acting under his or her direction to examine the statements of the condition and affairs of each registered corporation and the Superintendent or person shall make such inquiries as are necessary to ascertain the corporation's condition and ability to meet its obligations as and when they become due, whether the corporation is following sound business and financial practices, the procedures and standards of its management and whether or not the corporation has complied with this Act and the regulations and any requirement, order, term, condition or restriction of registration or inquiry made thereunder.

(2) In conducting the examination required by subsection (1), the Superintendent or other person shall attend at the principal place of business of the corporation and, if he or she considers it necessary, the Superintendent or person acting may visit any branch or office of the corporation.

(3) If the Superintendent is satisfied that an examination of a registered extra-provincial corporation conducted by the Government of Canada or of any province or territory of Canada complies with the standards required by the Superintendent for the examination of a corporation under subsection (1), the Superintendent may accept such examination, in whole or in part, as if it were an examination by the Superintendent under subsection (1).

183. The Director, or any person designated by the Director, may at any time within business hours examine any books of or in the possession of a registered corporation or any of its subsidiaries relating to its business, wherever situate, and vouchers, securities and documents of a registered corporation.

184.—(1) The Minister, on the Minister's own motion or upon an application by any interested party being made in writing, may appoint any person to make a special examination and audit of a registered corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

(2) An application under subsection (1) shall be supported by such evidence as the Minister may require for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.

Annual inspection of registered corporations

Idem

Reliance on inspection by another government

Examination by Director

Special examination

Evidence upon which inquiry to be ordered

Security for costs

(3) The Minister may require an applicant under subsection (1) to give security for the payment of the costs of the inquiry to be given before appointing the special examiner.

Powers of examiner

R.S.O. 1980,
c. 411

(4) A special examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies as if the examination, audit or inquiry were an inquiry under that Act.

Report to Minister

Payment of costs

Inquiries by Superintendent

(5) Upon the conclusion of the examination, audit and inquiry, the special examiner shall make a report in writing to the Minister.

(6) The Minister may, on the conclusion of an examination under this section, order the registered corporation or the party requesting the examination under subsection (1) to pay costs of such examination.

185.—(1) The Superintendent or Director may address any inquiries under this Act to a registered corporation or to the president, secretary or any other officer thereof and, in the case of an extra-provincial corporation, also to its agent under section 32, for the purpose of ascertaining the corporation's condition and ability to meet its obligations or as to the conduct of its business or as to complaints made by depositors, borrowers or by persons for whom the registered corporation acts in a fiduciary capacity and it is the duty of a registered corporation or officer so addressed to reply promptly in writing to any such inquiry.

Notice to directors

(2) The Superintendent or Director may require a registered corporation to forward a copy of any letter addressed to the registered corporation by the Superintendent or Director and any answer thereto to each director of the corporation and, upon such requirement being made, the secretary of the corporation shall include a copy of such letter and the answer thereto in the minutes of the meeting of the directors next following the requirement being made by the Superintendent or Director.

Extension of time

186. Where by or under this Act a registered corporation is required to provide or file with the Superintendent any return or document or other information, the Superintendent, in his or her absolute discretion and upon payment by the corporation of the prescribed fee, may, before or after the last day for making the submission, extend the time therefor for such period not exceeding sixty days as he or she considers appropriate.

187.—(1) A notice published in *The Ontario Gazette* over the name of the Superintendent is, without further proof, *prima facie* proof of the facts set forth in the notice. Notice as proof

(2) A certificate of the Superintendent that on a stated day a body corporate mentioned therein was or was not registered or was registered subject to terms, conditions or restrictions, or that the registration of a corporation was revoked on a stated day, is *prima facie* proof of the facts stated in the certificate. Certificate as to registration

(3) Copies of, or extracts from, any book, record, instrument or document in the office of the Superintendent or of or from any instrument or document issued under this Act, if certified by the Superintendent to be true copies or extracts, shall be held as authentic and are *prima facie* proof of and have the same legal effect as the original. Certified copies

188. The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with the Government of Canada or any province or territory in Canada, or the appropriate authority thereof, related to the administration and enforcement of this Act or of comparable legislation of any such other jurisdiction and, without restricting the generality of the foregoing, any such agreement may provide for the provision and exchange of information. Agreements with other Governments

189.—(1) The Superintendent may do all things necessary or incidental to the administration and enforcement of this Act and the regulations and, in particular, but without limiting the generality of the foregoing, may, Capacity of Superintendent

- (a) enter into contracts with registered corporations related to the management and rehabilitation of such corporations;
- (b) receive undertakings from extra-provincial corporations and enter into agreements with extra-provincial corporations; and
- (c) enter into contracts with third parties related to the administration of this Act and the regulations and give indemnities to third parties related to such activities as are authorized under such contracts.

(2) The Superintendent shall, not later than the 30th day of June in each year, submit to the Minister a report on the activities of the Superintendent's office for the twelve-month period ending on the preceding 31st day of March and the Annual report

Minister shall then lay the report before the Assembly if it is in session or, if not, at its next session.

PART XII

ENFORCEMENT AND CIVIL REMEDIES

Director's
orders

190.—(1) Where, in the opinion of the Director, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with a voluntary compliance program under section 196;
- (d) does not comply with any undertaking given under this Act;
- (e) constitutes a practice which might prejudice or adversely affect the interests of depositors or, if the corporation is a trust corporation, of persons for whom the corporation acts in a fiduciary capacity,

the Director may give notice to the registered corporation or other person of an intention to order the corporation or other person,

- (f) to cease doing any act or to cease pursuing any course of conduct identified by the Director; or
- (g) to perform such acts as in the opinion of the Director are necessary to remedy the situation.

Hearing

(2) The corporation or other person, by written notice served on the Director within fifteen days after the service of the notice on the corporation or other person under subsection (1), may require a hearing before the Director.

When order
may be made

(3) Where no hearing is requested within the time set out in subsection (2) or (4), or where a hearing is held and the Director is of the opinion that an order described in clause (1) (f) or (g) should be made, the Director may make a permanent order under either of those clauses which shall take effect immediately on its making or at such later date as may be set out in the order.

(4) Notwithstanding subsection (2), where in the opinion of the Director the interests of the depositors or the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Director may make a temporary order as described in clause (1) (f) or (g) which shall take effect immediately on its making and which shall become permanent on the fifteenth day after its making unless within that time a hearing before the Director is requested.

(5) A request for a hearing under subsection (4) shall be in writing and served on the Director.

(6) Where a hearing is requested under subsection (4), the Director may extend the temporary order until the hearing is concluded or any appeal from the hearing is concluded and the order is confirmed, varied or revoked.

(7) Where an order is made under this section, a copy of the order shall be sent to each director of the affected corporation.

(8) The Director, at any time, may revoke an order made under this section.

191.—(1) A party to a hearing before the Director, within fifteen days after the receipt of the Director's decision, may appeal the decision to an appeal panel by serving a notice in writing of the appeal on the Superintendent who shall advise the Minister forthwith of the request.

(2) An appeal shall be based on such evidence as may be presented to the appeal panel, and the panel, upon hearing an appeal, may confirm, vary or revoke the order that is the subject of the appeal.

192.—(1) Where this Act provides for an approval or consent of the Superintendent, he or she may give or refuse such approval or consent and an approval or consent may be subject to such terms and conditions as the Superintendent may impose.

(2) A decision by the Superintendent under this Act shall be in writing and is not subject to appeal to an appeal panel.

(3) Before refusing an approval or consent or before granting an approval or consent subject to terms and conditions, the Superintendent shall give the registered corporation notice of his or her intention and the registered corporation may require a hearing before the Superintendent.

Temporary
order

Hearing

Extension
of order

Copy to
directors

Modification
or
revocation of
order

Appeals

Superin-
tendent
approvals

Hearing

Power of
Superin-
tendent

(4) The Superintendent may at any time, having given the registered corporation an opportunity to be heard before him or her, confirm, revoke or vary any approval, consent or refusal.

Restriction
on borrowing
multiples

(5) The Superintendent may at any time, having given the registered corporation an opportunity to be heard, reduce the limit on its borrowing multiple authorized under section 155,

- (a) that a registered trust corporation may receive by way of deposit or borrow to any amount, including a multiplier that is less than ten times its capital base; or
- (b) that a registered loan corporation may borrow to any amount including a multiplier that is less than ten times its capital base.

Director may
be party

193. The Director is entitled to attend and to be represented by counsel at any hearing before an appeal panel.

Transcript

194. Oral evidence taken before the Director, the Superintendent or an appeal panel may be recorded and, if recorded, copies of a transcript thereof shall be furnished upon request upon the same terms and for the same fees as in the Supreme Court.

Hearings *in
camera*

195. A hearing before the Director, the Superintendent or an appeal panel, at the discretion of the Director, the Superintendent or the chairman of the panel, as the case may be, may be heard *in camera* or in public.

Voluntary
compliance
program

196.—(1) Where, in the opinion of the Superintendent, a registered corporation or other person is committing any act or pursuing any course of conduct that,

- (a) does not comply with this Act or the regulations;
- (b) might reasonably be expected, if continued, to result in a state of affairs that would not be in compliance with this Act or the regulations;
- (c) does not comply with any undertaking given under this Act; or
- (d) constitutes a practice that might prejudice or adversely affect the interests of depositors or persons for whom the registered corporation, if a trust corporation, acts in a fiduciary capacity,

the registered corporation or other person may enter into a program of voluntary compliance related to any act or course of conduct described in clause (a), (b), (c) or (d).

(2) A voluntary compliance program under this section shall be in writing and shall bind the registered corporation or other person from the time it is approved by the Superintendent. ^{Idem}

(3) Where a voluntary compliance program has been entered into, the Director shall not be prevented from making orders against the registered corporation or other person,

Powers of
Director and
Superin-
tendent
not affected

- (a) on matters not covered by the program;
- (b) where the program is not complied with, on matters covered in the voluntary compliance program;
- (c) if there has been a deterioration in the condition of the registered corporation; or
- (d) on matters covered in the program where all the facts related to the matter covered by the program were not known by the Superintendent at the time the program was entered into.

(4) The Superintendent on the request of a registered corporation may approve the alteration of a voluntary compliance program entered into under this section.

Modification
of program

197.—(1) Where,

- (a) a registered corporation or other person has not complied with an order of the Director or of an appeal panel;
- (b) a registered corporation or other person has breached an order of the court made under section 208;
- (c) grounds exist for the possession and control of a registered corporation by the Superintendent; or
- (d) a registered corporation's authority to carry on business has been cancelled or suspended under a law of Canada or of any province or territory of Canada,

Cancellation
of
registration

the Director may revoke the registration of the corporation or impose terms, conditions or restrictions on the registration of the corporation.

Notice of intention

(2) Where the Director proposes to act under subsection (1), the Director shall serve a notice of the intention to act on the corporation.

Hearing

(3) Subsections 190 (2) and (3) apply where a notice is served under subsection (2).

Corporation to cease business except for winding up purposes

(4) After the revocation of a registration under this section, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as it is necessary for the winding up of its business, but any liability incurred by it may be enforced against it as if such revocation had not taken place.

Notice on change of status

198.—(1) On the revocation of the registration of any corporation, or the modification of any of the terms, conditions or restrictions on its registration, the Director shall cause notice in writing thereof to be delivered to it.

Idem

(2) Where the corporation has had its registration revoked, the notice shall be published by the Director in *The Ontario Gazette*.

Orders imposing limitations and conditions or for taking possession and control

199.—(1) Notwithstanding any other provision of this Act, the Lieutenant Governor in Council, without holding a hearing, may order,

- (a) that a corporation's registration shall be subject to such terms, conditions and restrictions as are set out in the order; or
- (b) that the Superintendent take possession and control of the assets of a provincial corporation,

where, in the opinion of the Lieutenant Governor in Council, one or more of the following has occurred:

1. There has been, on or after the 21st day of December, 1982, a transfer or issue of shares to which subsection 63 (1) or (2) applies and consent has not been obtained under section 63 or a predecessor thereof.
2. The corporation has defaulted on payment of any of its liabilities.
3. The corporation is not complying with this Act or the regulations made under this Act.

4. The corporation's assets are not satisfactorily accounted for.
5. The corporation's assets are not sufficient, having regard to all the circumstances, to give adequate protection to the corporation's depositors.
6. There exists any practice of or state of affairs within the corporation that is or may be prejudicial to the public interest or to the interests of the corporation's depositors, creditors or shareholders.

(2) Where the Lieutenant Governor in Council makes an order under subsection (1), the Superintendent shall deliver a copy of the order to an officer of the registered corporation.

Delivery of order

(3) An order of the Lieutenant Governor in Council under subsection (1) shall take effect immediately and the order is final and binding and no such order or any order made under subsection (5) confirming or varying such order shall be stayed, varied or set aside by any court.

Order final and binding

(4) For the purposes of this section, the Lieutenant Governor in Council may appoint such persons as the Lieutenant Governor in Council considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities.

Appointment of appraiser

(5) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of any order made under subsection (1), the Lieutenant Governor in Council may confirm, vary or rescind the whole or any part of such order and an order confirming or varying an order made under subsection (1) is final and binding.

L.G. in C. may confirm, vary or rescind orders

(6) Nothing in this section affects the right of the Lieutenant Governor in Council to vary or rescind, at any time, an order made under subsection (1).

Saving

200.—(1) If so ordered by the Lieutenant Governor in Council under section 199, the Superintendent shall take possession and control of the assets of a provincial corporation and shall thereafter conduct its business and take such steps as in the Superintendent's opinion should be taken toward its rehabilitation or, where an order is made under paragraph 1 of subsection 199 (1), its continued operation, and for such purposes the Superintendent has all the powers of the board

Power of Superintendent upon taking control

of directors of the corporation, and without limiting the generality of the foregoing, the Superintendent may,

- (a) exclude the directors, officers, servants and agents of the corporation from the premises, property and business of the corporation; and
- (b) carry on, manage and conduct the operations of the corporation and in the name of the corporation preserve, maintain, realize, dispose of and add to the property of the corporation, receive the incomes and revenues of the corporation and exercise all the powers of the corporation.

Application
to court

(2) While the Superintendent has possession and control of the assets of a provincial corporation under this section, the Superintendent may apply to the court for an order for the winding up of the corporation under Part VI of the *Corporations Act*.

Appointment
of managers

(3) Where the Superintendent is in possession and control of the assets of a provincial corporation and is conducting its business, he or she may appoint one or more persons to manage and operate the business of the corporation, and,

- (a) each person so appointed is a representative of the Superintendent; and
- (b) the remuneration of any such person, other than an officer or employee of the Ministry, shall be fixed by the Superintendent.

Relinquishing
control

(4) Whenever the Lieutenant Governor in Council believes that a corporation whose assets are in the possession and control of the Superintendent meets the requirements of this Act and that it is otherwise proper for the corporation to resume possession and control of its assets and the conduct of its business, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease.

Where
rehabilitation
efforts futile

(5) If the Lieutenant Governor in Council considers that further efforts to rehabilitate a corporation whose assets are in the possession and control of the Superintendent would be futile, the Lieutenant Governor in Council may in writing direct the Superintendent to relinquish to the corporation the possession and control of its assets, and from and after the

date specified in such direction the powers of the Superintendent under this section cease.

(6) The expenses of the Superintendent incurred in proceedings under this section or section 198 or 199 shall be paid,

Expenses of
proceedings

- (a) by the registered corporation; or
- (b) where the corporation that is the subject of the proceeding,
 - (i) is a loan corporation and the corporation cannot pay the full cost of the proceedings, by all registered loan corporations, or
 - (ii) is a trust corporation and the trust corporation cannot pay the full cost of proceedings, by all registered trust corporations,

and, where clause (b) applies, the share of each registered corporation shall be in the same proportion as its total assets in its last preceding fiscal year bears to the total assets of all loan corporations or trust corporations, as the case may be, in the last preceding fiscal year of each.

(7) The registered corporations required by clause (6) (b) to bear the expenses of the Superintendent may appoint a committee of not more than six members to advise the Superintendent in respect of all matters pertinent to the rehabilitation of the corporation whose assets are in the possession and control of the Superintendent.

Advisory
committee

201.—(1) Notwithstanding any other provision of this Act, where the Superintendent has taken possession and control of a registered corporation under section 199, the Superintendent may apply to the High Court of Justice for an order,

Application
to court

- (a) authorizing some other person to conduct the business of the corporation on such terms and conditions as the court thinks fit;
- (b) authorizing and directing the sale of the assets of the corporation in whole or in part notwithstanding any provision of the *Bulk Sales Act*;
- (c) appointing interim or permanent substitute trustees in respect of all or any part of the fiduciary obligations and duties of the corporation;

R.S.O. 1980,
c. 52

- (d) authorizing or directing such other action as the court thinks appropriate and in the best interests of the depositors, persons for whom the corporation acts in a fiduciary capacity, the creditors and the public; or
- (e) staying any civil proceedings against the corporation while the Superintendent is in possession and control of the corporation.

Substituted fiduciary

- (2) Where the High Court of Justice has made an order under clause (1) (c), the fiduciary obligations and duties vest in, bind and may be enforced against the substituted fiduciary as fully and effectually as if the substituted fiduciary was originally named as fiduciary.

Orders, etc., binding on successors and assignees

- 202.** Where an order or approval is made or given under this Act or a term, condition or restriction is imposed on its registration, it is binding on every successor or assignee of the corporation or other person to whom it is directed.

Over-valued property

- 203.—(1)** If in the opinion of the Director with respect to a registered corporation or its subsidiaries, it appears that,

- (a) the value placed upon the real estate owned by the corporation or any of its subsidiaries or any parcel thereof is too great;
- (b) the amount secured by mortgage upon any parcel of real estate, together with interest due and accrued thereon is greater than the lending value of the parcel, or that the parcel is not sufficient security for the loan and interest; or
- (c) the market value of any other investment is less than the amount shown in the books of the corporation or any of its subsidiaries,

the Director may require the corporation to secure an appraisal of such assets by one or more competent valuators or the Director may procure such appraisal at the expense of the corporation.

Idem

- (2) If following an appraisal under subsection (1), it appears that the value of the asset is less than the amount at which it is carried on the books of the registered corporation or any of its subsidiaries or that the value is not adequate security for the loan and interest, the Director may order that the appraised value be reflected in calculations made for the purposes of this Act and the regulations.

(3) An order of the Director under subsection (2) shall be noted in the financial statement of the registered corporation. Idem

204.—(1) Where upon a statement made under oath it appears probable to the Superintendent that any corporation or other person has contravened any of the provisions of this Act or the regulations, the Superintendent by order may appoint any person to make such investigation as the Superintendent considers expedient for the due administration and enforcement of this Act, and in the order shall determine and prescribe the scope of the investigation. Investigation

(2) For the purpose of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine, Scope
investigation

(a) the affairs of the person or corporation in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the corporation or other person and any property, assets or things owned, acquired or alienated in whole or in part by the corporation or other person or by any person or corporation acting on behalf of or as agent for the person or corporation; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the corporation or other person and the relationship that may at any time exist or have existed between the corporation or other person and any other person by reason of investments, purchases, commissions promised, secured or paid, interests held or acquired, purchase or sale of stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(3) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable Powers to
summon
witnesses and
require
production

R.S.O. 1980,
c. 145

to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court and no provision of the *Evidence Act* exempts any bank or loan or trust corporation or any officer or employee thereof from the operation of this section.

Counsel

(4) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of
property

(5) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the corporation or other person whose affairs are being investigated.

Inspection of
seized
documents

(6) Where any documents, records, securities or other property are seized under subsection (5), the documents, records, securities or other property shall be made available for inspection and copying by the corporation or other person from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by the person or corporation to the person appointed to make the investigation.

Accountants
and experts

(7) Where an investigation is ordered under this section, the Superintendent may appoint an accountant or other expert to examine documents, records, properties and matters of the person or corporation whose affairs are being investigated.

Reports of
investigation

(8) Every person appointed under subsection (1) or (7) shall provide the Superintendent with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation.

Application
of
R.S.O. 1980,
c. 274

205. Section 8 of the *Ministry of Consumer and Commercial Relations Act* applies to every person appointed under subsection 204 (1) or (7).

Order to
freeze
property

206.—(1) The Superintendent may,

- (a) where the Superintendent is about to order an investigation in respect of a corporation or other person under section 204 or during or after an investigation in respect of a person or corporation under section 204;
- (b) where the Director is about to make or has made a decision revoking the registration of any corporation; or

- (c) where proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any corporation or other person that in the opinion of the Superintendent are connected with or arise out of any business conducted by the corporation or other person,

by any method that provides a written or printed copy, direct any corporation or other person having on deposit or under control or for safekeeping any funds, securities or assets of the corporation or other person referred to in clause (a), (b) or (c) to hold such funds or securities or assets or direct the corporation or other person referred to in clause (a), (b) or (c) to refrain from withdrawing or dealing with any such funds, securities or assets from any other person having any of them on deposit, under control or for safekeeping or to hold all funds, securities or assets in their possession or control in trust for the Superintendent, or until the Superintendent in writing revokes the direction or consents to release any particular fund or property from the direction.

(2) A direction issued under subsection (1) does not apply to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states and, in the case of a bank or a loan or trust corporation, the direction applies only to the offices, branches or agencies thereof named in the direction. ^{Idem}

(3) Any person or corporation named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular funds, securities or assets, may apply to the Superintendent for an order of clarification. Application for directions

(4) Upon the application of a registered corporation or other person directly affected by a direction issued under subsection (1), the Superintendent may make an order on such terms and conditions as he or she may impose revoking the direction or consenting to the release of any fund or security. Revocation or amendment of direction

(5) In any of the circumstances mentioned in clause (1) (a), (b) or (c), the Superintendent may by any method that provides a written or printed copy notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the corporation or other person referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of pending litigation or a caution, and the Superintendent may in writing revoke or modify the notice. Notice to land registry offices

Liability for
short-fall

207. Where the Director, under clause 190 (1) (a), (c) or (d), has ordered a registered corporation or any of its subsidiaries to dispose of and realize any of its investments and if the amount realized therefrom falls below the amount paid by it for such investments, the directors of the corporation are jointly and severally liable for the payment to the corporation of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he or she become aware of such investment, and is able to do so, enters his or her written protest against such investment, and within eight days thereafter notifies the Director in writing of the protest, the director of the corporation may thereby, but not otherwise, exonerate himself or herself from liability.

Order for
compliance

208.—(1) Where it appears to the Superintendent that any registered corporation or other person has failed to comply with or is not complying with,

(a) any approval given or any order made under this Act or the regulations;

(b) any voluntary compliance program entered into; or

(c) any term, condition or restriction imposed on its registration,

the Superintendent, in addition to any other rights under this Act, may apply to the High Court of Justice for an order,

(d) directing the person or corporation to comply with the decision, program or order or restraining the person or corporation from violating the approval, program, order, term, condition or restriction; and

(e) directing the directors and officers of the person or corporation to cause the person or corporation to comply with or to cease violating the terms and conditions of any approval, any voluntary program or order of the Director or Superintendent, or term, condition or restriction imposed on its registration,

and the court may make such order as it considers appropriate.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Oppression
remedy

209.—(1) A depositor, shareholder, creditor, a person for whom the registered corporation acts in a fiduciary capacity or

the Superintendent may apply to the High Court of Justice for an order under this section.

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a registered corporation or any of its affiliates,^{Idem}

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any shareholder, depositor, creditor or person for whom the corporation acts in a fiduciary capacity, the court may make an order to rectify the matters complained of.

(3) Where a depositor, shareholder, creditor or person for whom the corporation acts in a fiduciary capacity makes an application under subsection (1), he or she shall give notice to the Superintendent.^{Notice to Superintendent}

(4) In connection with an application under this section, the court may make any interim or final order it thinks appropriate including, without limiting the generality of the foregoing,^{Court order}

- (a) an order restraining the conduct complained of;
- (b) an order to regulate a corporation's affairs by amending the by-laws;
- (c) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (d) an order varying or setting aside a transaction or contract to which a registered corporation is a party and compensating the registered corporation or any other party to the transaction or contract;
- (e) an order requiring a registered corporation, within a time specified by the court, to produce to the court or an interested person financial statements or an

accounting in such other form as the court may determine;

- (f) an order compensating an aggrieved person;
- (g) an order directing rectification of the records of a corporation; or
- (h) an order requiring the trial of any issue.

Want of
prosecution

210.—(1) An application under section 209 shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any person described in subsection 209 (1) may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application to give notice to the person.

Costs

(2) A person described in subsection 209 (1) is not required to give security for costs in any application under that section.

Idem

(3) In an application under section 209, the court may at any time order the registered corporation or any of its affiliates to pay to the shareholder, depositor, creditor or person to whom the corporation acts in a fiduciary capacity or Superintendent interim costs, including reasonable legal fees and disbursements, for which interim costs the complainant may be held accountable to the corporation or its affiliate upon final disposition of the application.

PART XIII

OFFENCES AND PENALTIES

Carrying on
business of
corporation
prohibited

211.—(1) No person, other than a registered corporation, shall conduct, undertake or transact in Ontario the business of a loan corporation or of a trust corporation.

Carrying on
business of
trust
corporation
prohibited

(2) No body corporate, other than a registered trust corporation, shall offer its services to the public as, or accept or execute the office of,

- (a) executor, administrator or trustee; or
- (b) guardian of any minor's estate or committee of any mentally incompetent person's estate.

Restriction
on
use of name

(3) No person, other than a registered trust corporation, shall hold itself out to the public in Ontario as a registered

trust corporation by using in its name the words "trust corporation", "trust company" or "trustco" or any similar words in its name in conjunction with its business or undertakings, unless such name was legally in use before the day this section comes into force.

(4) No corporation, other than a registered corporation, shall hold itself out to the public in Ontario as a registered corporation by conducting, undertaking or transacting any part or aspect of the business of a trust corporation or loan corporation.

Carrying on
business by
corporations

(5) No person, other than a registered corporation and a person duly authorized by it to act on its behalf, shall solicit the business of a trust corporation or loan corporation.

Matters
deemed
undertaking
business

(6) No person shall undertake, transact or solicit in Ontario any part or aspect of the business of a trust corporation or a loan corporation for a body corporate that is not registered under this Act.

Action of
promoters,
etc.

(7) No registered corporation, directly or indirectly, through a subsidiary or otherwise, unless permitted by or under this Act, shall,

Prohibition
on certain
activities

- (a) deal in goods, wares and merchandise or engage in any trade or business;
- (b) provide letters of credit or like instruments;
- (c) guarantee the performance of any obligation by a person other than the corporation or its subsidiary; or
- (d) issue notes of the corporation payable to bearer on demand and intended for circulation.

212.—(1) Every person who,

Offences

- (a) contravenes any provision of section 211;
- (b) fails to comply with any undertaking given under this Act;
- (c) fails to comply with an order made under this Act;
- (d) contravenes any provision of Part IX;

- (e) allows their name to be used on behalf of a person having a beneficial interest in a corporation for the purpose of disguising such interest;
- (f) contravenes the reporting requirements related to insider trading in respect of trust corporations or loan corporations;
- (g) traffics in a shareholder's list contrary to section 132;
- (h) accepts or receives or gives a grant or gratuity or holds shares contrary to section 177;
- (i) fails to report to the Superintendent as required under this Act; or
- (j) in the case of a registered corporation, contravenes any term, condition or restriction imposed on its registration,

is guilty of an offence.

Penalty

(2) On conviction for an offence referred to in subsection (1) or subsection 60 (4) or 61 (5), the person convicted is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

Derivative

(3) Every person who caused, authorized, permitted or participated in an offence referred to in subsection (1) or subsection 60 (4) or 61 (5) is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

**Saving,
voluntary
compliance
program**

(4) Notwithstanding subsection (1), a person for whom a voluntary compliance program has been approved by the Superintendent who complies fully with such program shall not be prosecuted for or convicted of an offence in respect of the breach of this Act which the program was intended to remedy.

**Saving,
disclosure**

(5) A person is not guilty of an offence under clause (1) (d) if the person was not a party to the offence and reported the failure to comply with Part IX as set out in section 149 or 150.

**Limitation
period**

213. No proceeding for an offence under this Part shall be commenced in any court more than two years after the facts

upon which the proceedings are based first came to the knowledge of the Superintendent.

214. Where a person is guilty of an offence under this Act or the regulations, the court in which proceedings in respect of the offence are taken, in addition to any punishment it may impose, may order that person to comply with the provisions of this Act or the regulations for the contravention of which the person has been convicted.

215. Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

PART XIV

MISCELLANEOUS AND REGULATIONS

216. A registered corporation, without the authority, aid, assistance or intervention of any other person or official being required, may receive deposits from any person regardless of the person's age, status or condition in life, and whether the person is qualified by law to enter into ordinary contracts or not, and from time to time may pay any or all of the principal thereof and any or all of the interest thereon to or to the order of the person, unless before payment, the money on deposit is claimed by some other person in a court proceeding to which the corporation is a party and in respect of which service of a statement of claim or other process originating such proceeding has been made on the corporation, or in any other proceeding pursuant to which an injunction or order made by the court requiring the corporation not to make payment of such money or to make payment thereof to some person other than the depositor has been served on the corporation, and in the case of any such claim so made the money so deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

217.—(1) A person who has deposits with a registered corporation not exceeding \$2,000 may, by a writing, signed by him or her and deposited with the corporation, nominate any person to receive the amount thereof at his or her death.

(2) Upon receiving a statutory declaration as to the death of a person who has made a nomination under subsection (1), the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due.

Order to
comply

Restitution

Deposits
from persons
unable to
contract

Direction as
to disposition
of deposits
on
death

Rights of
corporation

Where no direction

(3) Where a depositor as described in subsection (1) dies without making a nomination in accordance with that subsection, the deposit may, without letters probate or letters of administration being taken out, be paid or transferred to,

- (a) the person who appears to the corporation to be entitled under the will of such depositor or in the case of intestacy under the law relating to devolution of property to receive it; or
- (b) any person who appears to the corporation to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of the depositor,

upon receipt by the corporation of the statutory declaration of the person so claiming stating the time and place and death of the applicant and the facts supporting the claim.

Payments by mistake

218. Where a registered corporation, after the death of a depositor, has paid or transferred a deposit to the person who at the time appeared to be entitled thereto, the payment or transfer is valid with respect to any demand from any other person as the legatee or next of kin or as the lawful representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit from the recipient or transferee.

Delivery of notices

219.—(1) Delivery of any written notice or document for any purpose of this Act, where the mode is not otherwise specified, may be delivered by first class ordinary mail or first class registered mail,

- (a) in the case of a registered corporation, addressed to it or its chief executive officer at its principal place of business;
- (b) in the case of a director, addressed to the director at his or her address as shown on the records of the Superintendent; and
- (c) in the case of the Superintendent, addressed to the Superintendent at his or her office.

Idem

(2) In the case of an extra-provincial corporation, a notice or document may be delivered in accordance with clause (1) (a) or may be delivered by first class or registered mail addressed to it or its agent or any of its agents at the address thereof as set out in the most recent application filed under section 32.

220. The Lieutenant Governor in Council may make regulations Regulations

- (a) prescribing forms and providing for their use;
- (b) requiring the payment of fees for letters patent of incorporation and supplementary letters patent and in respect of any function performed by the Superintendent or Director under this Act or the regulations and prescribing the amounts thereof;
- (c) exempting persons holding such percentage, as may be set out in the regulation, of shares of a corporation from the requirements of section 63;
- (d) exempting classes of corporations from the requirements of section 63;
- (e) respecting the records, papers and documents to be retained by corporations and the length of time they shall be so retained;
- (f) requiring the disclosure to borrowers of terms and conditions of loans, mortgages and interest rates in lending transactions;
- (g) prescribing words or expressions that are prohibited in the name of a corporation and prescribing conditions for the use of names by corporations;
- (h) prescribing the information that shall be maintained in the Loan Corporations Register, the Trust Corporations Register and the public file of each corporation;
- (i) governing the custody and safekeeping of securities, property or trust assets registered in the name of or held by a registered corporation;
- (j) prescribing financial statements required under this Act;
- (k) prescribing information to be publicly disclosed by a corporation;
- (l) governing the reporting of information by the Trust Companies Association of Canada;
- (m) prescribing the method of calculating the capital base of a corporation, including what assets may or

may not be included therein and the manner in which the value of any such asset shall be calculated or determined for such purpose;

- (n) prescribing the method of calculating the total assets of a corporation, including the manner in which the value of any such asset shall be calculated or determined for such purpose;
- (o) prescribing classes of loans, investments or transactions for the purposes of Part IX;
- (p) prescribing limits in dollar amounts or in a percentage of total assets of investments in any asset or any class of assets and where a limit has been imposed by this Act with respect to any asset or class of assets, prescribing limits that are more restrictive than those set out in the Act;
- (q) prescribing the method of calculating liquidity of a corporation;
- (r) governing the issue of subordinated notes;
- (s) governing the establishment and operation of common trust funds and the investment of trust money in such funds;
- (t) requiring the bonding and insurance coverage of and for directors, officers, agents and employees of the corporation and of property of the corporation or held by it;
- (u) governing the activities of a registered corporation in dealing with persons who act as agents for the corporation and governing the relationships between the corporation and its agents;
- (v) prescribing terms and conditions for the establishment of subsidiaries;
- (w) relating to reports by auditors;
- (x) prescribing qualifications for appointment as an officer of a corporation;
- (y) prescribing duties for audit committees and investments committees;

- (z) prescribing any matter referred to in this Act as being prescribed by the regulations.

221. The Superintendent may exempt a trust corporation that in other respects complies with this Act from compliance with the minimum capital requirements under subsection 10 (5) or clause 33 (a), subject to such terms and conditions as may be prescribed and to such terms and conditions as the Superintendent may impose, so long as the trust corporation is offering its services primarily in a community that, in the opinion of the Superintendent, would not otherwise be adequately served by a trust corporation.

Exemption
from
minimum
capital
requirements

222.—(1) Notwithstanding any other provision of this Act, where a corporation, immediately before the coming into force of clause 33 (a) of this Act, was registered under the *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980, the minimum capital requirements under that clause shall not apply to the corporation until the 1st day of January, 1991 so long as the corporation maintains the minimum capital requirements required by the predecessor of this Act or such greater minimum capital requirements as the Lieutenant Governor in Council may order.

Transition,
capital levels

(2) The Lieutenant Governor in Council may extend the period for compliance with minimum capital requirements under clause 33 (a), beyond the 1st day of January, 1991, subject to such terms and conditions as the Lieutenant Governor in Council may impose.

Extension
of time

(3) Notwithstanding any other provision of this Act, the board of directors of a loan corporation or a trust corporation in office immediately before the coming into force of this section may continue in office until the annual meeting next following the coming into force of this section.

Transition,
directors

(4) Notwithstanding that an investment was made by a registered corporation or any of its subsidiaries before the coming into force of this Act, the corporation or subsidiary shall divest itself of the investment within twelve months of the coming into force of this Act, if the investment, had it been made after the coming into force of this Act, would exceed any limit imposed by section 161, 165 or 166.

Transition,
quantum
limits
on
investments

223.—(1) No corporation shall carry on the business of a loan corporation or of a trust corporation after the 1st day of July, 1996.

Duration of
authority to
carry on
business

Extension
of time

(2) The Lieutenant Governor in Council may make regulations changing the date set out in subsection (1) to a date not later than the 1st day of July, 1997.

PART XV

AMENDMENTS, REPEALS, COMMENCEMENT, SHORT TITLE

224.—(1) The *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Advisory
committees

6b. Subject to the approval of the Lieutenant Governor in Council, the Minister may establish advisory committees to the Minister and sub-committees thereto, appoint chairmen and members of such committees and sub-committees, fix the terms of reference of such committees and sub-committees and fix the remuneration and expenses of the chairmen and members of such committees and sub-committees.

(2) Section 8 of the said Act is repealed and the following substituted therefor:

Protection
from
personal
liability

8.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry or any member of the Tribunal or anyone acting under the authority thereof for any act done in good faith in the execution or intended execution of such person's duty, or for any alleged neglect or default in the execution in good faith of such person's duty.

Idem
R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

225. Subparagraph ii of paragraph 32 of subsection 1 (1) of the *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1985, c. ...

ii. administered by a trust corporation registered under the *Loan and Trust Corporations Act*, 1985 and consists of a common trust fund as defined in section 1 of that Act.

Repeals

226. The following are repealed:

1. The *Loan and Trust Corporations Act*, being chapter 249 of the Revised Statutes of Ontario, 1980.
2. The *Loan and Trust Corporations Amendment Act, 1982*, being chapter 62.

227. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

228. The short title of this Act is the *Loan and Trust Corporations Act, 1985*. Short title

Bill 88

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon
Treasurer of Ontario



1st Reading December 18th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The annual indemnity of members of the Assembly is increased from \$34,808 to \$36,166.

The annual allowance for expenses of members of the Assembly is increased from \$11,686 to \$12,142.

SECTION 2. Leaders' allowances for expenses are increased:

1. For the Premier, from \$6,576 to \$6,832.
2. For the Leader of the Opposition, from \$4,384 to \$4,555.
3. For the Leader of the Third Party, from \$2,192 to \$2,277.

SECTION 3. Additional indemnities are increased:

1. For the Speaker, from \$18,826 to \$19,560.
2. For the Leader of the Opposition, from \$25,504 to \$26,499.
3. For the Leader of the Third Party, from \$12,806 to \$13,305.

SECTION 4. Additional indemnities are increased:

1. For the Chairman of the Committees of the Whole House, from \$7,880 to \$8,187.
2. For the Deputy Chairman of the Committees of the Whole House, from \$5,473 to \$5,686.
3. For chairmen of standing committees, from \$4,268 to \$4,434.

SECTION 5. Additional indemnities to Whips are increased:

1. For the Chief Government Whip, from \$9,741 to \$10,121.
2. For the Deputy Government Whip, from \$6,676 to \$6,936.
3. For the Government Whips, from \$4,815 to \$5,003.
4. For the Chief Opposition Whip, from \$6,676 to \$6,936.
5. For the Opposition Whips, from \$4,815 to \$5,003.
6. For the Chief Party Whip of the Third Party, from \$5,473 to \$5,686.
7. For the Party Whip of the Third Party, from \$4,378 to \$4,549.

SECTION 6. Allowances for expenses are increased:

1. For each member of a committee, from \$63 to \$65.
2. For the chairman of a committee, from \$73 to \$76.

SECTION 7. Members' severance allowances are changed to one month of salary for each year of service, with a minimum allowance of six months salary and a maximum allowance of one year of salary.

SECTION 8. Additional indemnities are increased:

1. For the Opposition House Leader, from \$9,741 to \$10,121.
2. For the House Leader of the Third Party, from \$7,333 to \$7,619.

Bill 88**1985****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$36,166 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,142 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$6,832 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,555 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,277 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

- (1) In addition to his indemnity as a member, there shall be paid,
- (a) to the Speaker an indemnity at the rate of \$19,560 per annum;
 - (b) to the Leader of the Opposition an indemnity at the rate of \$26,499 per annum; and
 - (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,305.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

- (1) In addition to his indemnity as a member, an indemnity shall be paid,
- (a) to the person who is Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,187 per annum;
 - (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,686 per annum; and
 - (c) to the chairman of each standing committee at the rate of \$4,434 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

- (1) In addition to his indemnity as a member, an indemnity shall be paid,
- (a) to the Chief Government Whip, at the rate of \$10,121 per annum;
 - (b) to the Deputy Government Whip, at the rate of \$6,936 per annum;
 - (c) to each of not more than three Government Whips, at the rate of \$5,003 per annum;
 - (d) to the Chief Opposition Whip, at the rate of \$6,936 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,003 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,686 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,549 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1984, chapter 36, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1984 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$65 and to the chairman thereof an allowance for expenses of \$76, and,

7. Section 68 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 29, section 7, is repealed and the following substituted therefor:

68.—(1) A person who is a member of the Assembly immediately before the Assembly is dissolved or is ended by the passage of time and who does not become a member of the next following Assembly shall be paid a severance allowance equal to one-twelfth of his or her annual indemnity as a member, at the rate in force immediately before he or she ceases to be a member, for each year of service. Severance allowance

(2) A member of the Assembly who resigns his or her seat shall be paid a severance allowance equal to one-twelfth of his or her annual indemnity as a member at the rate in force on the day he or she ceases to be a member, for each year of service. Severance allowance on resignation

(3) Where a person who is a member of the Assembly dies, whether before the Assembly is dissolved or is ended by the passage of time or after dissolution or ending of the Assembly but before the polling day that follows the dissolution or end- Payment to personal representative on death of member

ing, an amount equal to one-twelfth of his or her annual indemnity as a member, at the rate in force on the day of his or her death or immediately before the dissolution or ending, as the case requires, shall be paid to his or her personal representative, for each year of service.

Limits

(4) A severance allowance under subsection (1), (2) or (3) shall not be less than one-half nor more than the annual amount of the person's annual indemnity as a member.

8. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 7, is repealed and the following substituted therefor:

House
Leaders'
indemnities

69. In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Opposition House Leader, at the rate of \$10,121 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,619 per annum.

Commence-
ment

9. This Act shall be deemed to have come into force on the 1st day of April, 1985.

Short title

10. The short title of this Act is the *Legislative Assembly Amendment Act, 1985*.

Bill 88

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 88

(*Chapter 18*
Statutes of Ontario, 1985)

An Act to amend the Legislative Assembly Act

The Hon. R. Nixon
Treasurer of Ontario



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 18th, 1985 |
| <i>2nd Reading</i> | December 19th, 1985 |
| <i>3rd Reading</i> | December 20th, 1985 |
| <i>Royal Assent</i> | December 20th, 1985 |

Bill 88**1985****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$36,166 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$12,142 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 2, is repealed and the following substituted therefor:

61. In addition to his indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$6,832 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,555 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,277 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader
of a minority
party

- (1) In addition to his indemnity as a member, there shall be paid,
- (a) to the Speaker an indemnity at the rate of \$19,560 per annum;
 - (b) to the Leader of the Opposition an indemnity at the rate of \$26,499 per annum; and
 - (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$13,305.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and
chairmen
of standing
committees,
indemnity

- (1) In addition to his indemnity as a member, an indemnity shall be paid,
- (a) to the person who is Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,187 per annum;
 - (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$5,686 per annum; and
 - (c) to the chairman of each standing committee at the rate of \$4,434 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 5, is repealed and the following substituted therefor:

Whips.
indemnities

- (1) In addition to his indemnity as a member, an indemnity shall be paid,
- (a) to the Chief Government Whip, at the rate of \$10,121 per annum;
 - (b) to the Deputy Government Whip, at the rate of \$6,936 per annum;
 - (c) to each of not more than three Government Whips, at the rate of \$5,003 per annum;
 - (d) to the Chief Opposition Whip, at the rate of \$6,936 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,003 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$5,686 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,549 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 50, section 7 and 1984, chapter 36, section 6, is further amended by striking out the first, second, third and fourth lines in the amendment of 1984 and inserting in lieu thereof the following:

(1) There shall be paid to each member of a committee of the Assembly other than the chairman thereof an allowance for expenses of \$65 and to the chairman thereof an allowance for expenses of \$76, and,

7. Section 68 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 29, section 7, is repealed and the following substituted therefor:

68.—(1) A person who is a member of the Assembly immediately before the Assembly is dissolved or is ended by the passage of time and who does not become a member of the next following Assembly shall be paid a severance allowance equal to one-twelfth of his or her annual indemnity as a member, at the rate in force immediately before he or she ceases to be a member, for each year of service. Severance allowance

(2) A member of the Assembly who resigns his or her seat shall be paid a severance allowance equal to one-twelfth of his or her annual indemnity as a member at the rate in force on the day he or she ceases to be a member, for each year of service. Severance allowance on resignation

(3) Where a person who is a member of the Assembly dies, whether before the Assembly is dissolved or is ended by the passage of time or after dissolution or ending of the Assembly but before the polling day that follows the dissolution or end- Payment to personal representative on death of member

ing, an amount equal to one-twelfth of his or her annual indemnity as a member, at the rate in force on the day of his or her death or immediately before the dissolution or ending, as the case requires, shall be paid to his or her personal representative, for each year of service.

Limits

(4) A severance allowance under subsection (1), (2) or (3) shall not be less than one-half nor more than the annual amount of the person's annual indemnity as a member.

8. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 36, section 7, is repealed and the following substituted therefor:

**House
Leaders'
indemnities**

69. In addition to his indemnity as a member, an indemnity shall be paid,

- (a) to the Opposition House Leader, at the rate of \$10,121 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$7,619 per annum.

**Commence-
ment**

9. This Act shall be deemed to have come into force on the 1st day of April, 1985.

Short title

10. The short title of this Act is the *Legislative Assembly Amendment Act, 1985*.

Bill 89

An Act to amend the Executive Council Act

The Hon. R. Nixon
Treasurer of Ontario



1st Reading December 18th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

SECTION 1. Annual salaries are increased as follows:

1. Premier and President of the Council, from \$36,341 to \$37,759.
2. Minister with portfolio, from \$25,504 to \$26,499.
3. Minister without portfolio, from \$12,806 to \$13,306.
4. Parliamentary Assistant, from \$7,880 to \$8,187.

Bill 89**1985****An Act to amend the Executive Council Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 35, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is Salaries \$26,499.

(2) The Premier and President of the Council shall receive, in addition, \$11,260 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$13,306. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,187. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1985. Commencement

3. The short title of this Act is the *Executive Council Amendment Act, 1985*. Short title

Bill 89

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 89

(*Chapter 19
Statutes of Ontario, 1985*)

An Act to amend the Executive Council Act

The Hon. R. Nixon
Treasurer of Ontario



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 18th, 1985 |
| <i>2nd Reading</i> | December 19th, 1985 |
| <i>3rd Reading</i> | December 20th, 1985 |
| <i>Royal Assent</i> | December 20th, 1985 |

Bill 89**1985****An Act to amend the Executive Council Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 35, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$26,499. Salaries

(2) The Premier and President of the Council shall receive, in addition, \$11,260 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$13,306. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,187. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1985. Commencement

3. The short title of this Act is the *Executive Council Amendment Act, 1985*. Short title

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 90

An Act to amend the Legislative Assembly Retirement Allowances Act



The Hon. R. Nixon
Treasurer of Ontario

1st Reading December 18th, 1985
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The term "spouse" is defined for the purposes of the Act. The definition is similar to the definition in Part III (Support Obligations) of Bill 1, *An Act to revise the Family Law Reform Act*.

SECTION 2. The contribution rate under Part II of the Act is changed from 8½ per cent to 10 per cent commencing the 1st day of January, 1986.

SECTION 3. For members who become eligible for an annual allowance on or after the 1st day of January, 1986, the method of calculating the amount of the annual allowance is changed to 5 per cent of average annual remuneration multiplied by not more than fifteen years of service.

Bill 90**1985**

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (ca) “spouse”, in relation to a member or former member who dies on or after the 1st day of January, 1986, means either of a man and woman who,
 - (i) are married to each other,
 - (ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act,
 - (iii) are not married to each other and have cohabited continuously for a period of not less than three years, or
 - (iv) are not married to each other and have cohabited in a relationship of some permanence, if they are the natural or adoptive parents of a child.

2. Section 17 of the said Act is amended by striking out “8½” in the second line and inserting in lieu thereof “10”.

3.—(1) Subsection 18 (2) of the said Act is amended by inserting after “(3)” in the sixth line “or (3a)”.

(2) Section 18 of the said Act is amended by adding thereto the following subsection:

Person
eligible on or
after January
1st, 1986

(3a) The amount of a person's allowance under this section, if the person ceases to be a member on or after the 1st day of January, 1986, shall be an amount equal to 5 per cent of the person's average annual remuneration multiplied by the years of service, including part of a year, to the person's credit up to and including fifteen years of such service, but the amount of the allowance shall not exceed 75 per cent of the person's average annual remuneration.

(3) Subsection 18 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 17, section 3, is further amended by inserting after (3) in the fifth line "or (3a)".

Commencement

4. This Act comes into force on the 1st day of January, 1986.

Short title

5. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1985*.

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 90

(*Chapter 20
Statutes of Ontario, 1985*)

An Act to amend the Legislative Assembly Retirement Allowances Act

The Hon. R. Nixon
Treasurer of Ontario



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 18th, 1985 |
| <i>2nd Reading</i> | December 19th, 1985 |
| <i>3rd Reading</i> | December 20th, 1985 |
| <i>Royal Assent</i> | December 20th, 1985 |

Bill 90**1985****An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (ca) “spouse”, in relation to a member or former member who dies on or after the 1st day of January, 1986, means either of a man and woman who,
 - (i) are married to each other,
 - (ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act,
 - (iii) are not married to each other and have cohabited continuously for a period of not less than three years, or
 - (iv) are not married to each other and have cohabited in a relationship of some permanence, if they are the natural or adoptive parents of a child.

2. Section 17 of the said Act is amended by striking out “8½” in the second line and inserting in lieu thereof “10”.

3.—(1) Subsection 18 (2) of the said Act is amended by inserting after “(3)” in the sixth line “or (3a)”.

(2) Section 18 of the said Act is amended by adding thereto the following subsection:

Person
eligible on or
after January
1st, 1986

(3a) The amount of a person's allowance under this section, if the person ceases to be a member on or after the 1st day of January, 1986, shall be an amount equal to 5 per cent of the person's average annual remuneration multiplied by the years of service, including part of a year, to the person's credit up to and including fifteen years of such service, but the amount of the allowance shall not exceed 75 per cent of the person's average annual remuneration.

(3) Subsection 18 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 17, section 3, is further amended by inserting after (3) in the fifth line "or (3a)".

Commence-
ment

4. This Act comes into force on the 1st day of January, 1986.

Short title

5. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1985*.

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 91

An Act to amend the Human Tissue Gift Act

Mr. Poirier

1st Reading December 18th, 1985

2nd Reading

3rd Reading

Royal Assent



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EXPLANATORY NOTE

The Bill is intended to facilitate the obtaining of human organs for transplant purposes by creating an automated register of the names of all persons entitled to insured services under the *Health Insurance Act*, indicating whether each person has filed a general or specific consent to *post mortem* organ donation, has filed an objection to the procedure or has done neither. Provision is made for the amendment of the register and for keeping it confidential.

Bill 91**1985****An Act to amend the Human Tissue Gift Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Human Tissue Gift Act*, being chapter 210 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2a) Subsection (1) does not apply where the register referred to in subsection 8a (2) contains a record of an objection, by the person who died or whose death is imminent, to the use after death of the person's body, or of the part or parts of the body in respect of which a consent is sought, for therapeutic purposes, medical education or scientific research.

Where
objection
recorded

2. Part II of the said Act is amended by adding thereto the following section:

8a.—(1) In this section,

Definitions

“consent” means a consent given under clause (4) (1) (a);

“objection” means a person’s written statement indicating that the person objects to the use after death of the person’s body, or of a part or parts of the body, for therapeutic purposes, medical education or scientific research.

(2) The Minister of Health shall maintain a register containing,

Register of
consents and
objections

(a) the names and health insurance numbers of all insured persons as defined in the *Health Insurance Act*; and

R.S.O. 1980,
c. 197

(b) records of consents and objections of insured persons filed with the Ministry of Health.

(3) A record of a consent or objection contained in the register,

Nature and
amendment
of register

- (a) shall be stored electronically or on a magnetic medium so as to be capable of being retrieved by reference to the name and health insurance number of the person who gave the consent or made the objection;
- (b) shall be amended or deleted where the person who gave the consent or made the objection so requests; and
- (c) may be deleted where the Minister of Health is satisfied that the person who gave the consent or made the objection has died.

Access to
register

(4) No person shall have access to a record of a consent or objection except,

- (a) the person who gave the consent or made the objection, and his or her personal representative;
- (b) a physician who *bona fide* requires the information in connection with a proposed transplant, or a person acting on the physician's behalf; and
- (c) an employee of the Minister of Health whose duties require access to the record.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Human Tissue Gift Amendment Act, 1985*.

Bill 92

An Act to amend the Nursing Homes Act

Mr. Cooke
(Windsor-Riverside)



1st Reading December 18th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill requires the financial statements of licensed nursing homes to be tabled in the Assembly and made available for public inspection.

Bill 92**1985****An Act to amend the Nursing Homes Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Nursing Homes Act*, being chapter 320 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

17a.—(1) A licensee shall, at the end of the licensee's fiscal year, prepare or cause to be prepared a financial statement for the nursing home, including, Financial statement

- (a) a statement of profit and loss for that fiscal year; and
- (b) a budget of all projected expenditures for the next fiscal year, including details of projected expenditures for nursing care, food, recreation and other programs.

(2) A licensee shall file the financial statement referred to in subsection (1) with the Minister within ninety days of the end of the licensee's fiscal year, and the Minister shall submit the financial statement to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Tabling

(3) After a financial statement has been tabled in accordance with subsection (2), the licensee shall post a copy of it in a conspicuous place at the nursing home and shall make it available for inspection by any person on request during ordinary business hours. Posting and public inspection

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Nursing Homes Amendment Act, 1985*. Short title

Bill 93

An Act to amend the Employment Standards Act

Mr. Mackenzie



1st Reading December 18th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill adds three holidays to the definition of “public holiday”. They are Easter Monday, the first Monday in August and Boxing Day.

Bill 93**1985****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (l) “public holiday” means New Year’s Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, the first Monday in August, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Employment Standards Amendment Act, 1985*. Short title

Bill 94

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

The Hon. M. Elston

Minister of Health

1st Reading December 19th, 1985

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The Bill provides that physicians, dentists and optometrists who do not bill OHIP directly may not charge more than the OHIP rate for rendering an insured service to an insured person. A person who contravenes this is guilty of an offence and liable on conviction to a fine of not more than \$10,000. A judge who finds a person guilty may also order the person to pay back to the insured person any money received in excess of the OHIP rate. As an alternative, the insured person may sue the person for that excess.

The Bill also provides that the Minister of Health may enter an agreement with associations representing physicians, dentists and optometrists to provide methods of negotiating and determining the amounts payable under OHIP.

Bill 94**1985**

**An Act regulating
the Amounts that Persons may charge
for rendering Services that are Insured Services
under the Health Insurance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“dentist” means a person who is authorized under the *Health Disciplines Act* to engage in the practice of dentistry; R.S.O. 1980,
c. 196

“insured person” means a person who is entitled to insured services under the *Health Insurance Act* and the regulations made under it; R.S.O. 1980,
c. 197

“insured service” means a service that is an insured service under the *Health Insurance Act* and the regulations made under it;

“optometrist” means a person who is authorized under the *Health Disciplines Act* to engage in the practice of optometry;

“physician” means a legally qualified medical practitioner who is lawfully entitled to practise medicine in Ontario;

“Plan” means the Ontario Health Insurance Plan referred to in section 10 of the *Health Insurance Act*.

2. A physician or an optometrist who does not submit his or her accounts directly to the Plan under section 21 or 22 of the *Health Insurance Act* or a dentist shall not charge more or accept payment for more than the amount payable under the Plan for rendering an insured service to an insured person. Persons
not to charge
more than
OHIP

3.—(1) The Minister of Health may enter into agreements with the associations mentioned in subsection (2), as repre- Agreement
for
determining
amount

sentatives of physicians, dentists and optometrists, to provide for methods of negotiating and determining the amounts payable under the Plan in respect of the rendering of insured services to insured persons.

- | | |
|--|--|
| Associations | (2) The associations representing physicians, dentists and optometrists are, |
| | (a) the Ontario Medical Association, in respect of physicians; |
| | (b) the Ontario Dental Association, in respect of dentists; and |
| | (c) the Ontario Association of Optometrists, in respect of optometrists. |
| Idem | (3) The Lieutenant Governor in Council may make a regulation providing that the Minister may enter into an agreement under subsection (1) with a specified person or organization other than an association mentioned in subsection (2). |
| Offence | 4. —(1) A physician, a dentist or an optometrist who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. |
| Award for debt | (2) When a defendant is convicted of an offence for charging a person more than the amount payable under the Plan, the court shall, on the request of the prosecutor and with the consent of the person, order the defendant to pay the person the amount by which the amount actually paid by the person exceeds the amount payable under the Plan. |
| Costs of prosecution | (3) When a prosecution is conducted by a private prosecutor and the defendant is convicted, the court may determine the actual costs reasonably incurred in conducting the prosecution and, despite section 61 of the <i>Provincial Offences Act</i> , may order those costs to be paid by the defendant to the prosecutor. |
| R.S.O. 1980, c. 400 | (4) An order under subsection (2) or an award of costs under subsection (3) shall be in addition to any fine that is imposed under subsection (1). |
| Award and costs in addition to fine | (5) An order under subsection (2) extinguishes the right of the person in whose favour the judgment is made to bring a civil action against the defendant to recover any money owed arising out of the same facts. |
| Civil action | |

(6) The failure to request an order under subsection (2) ^{Idem} does not affect a right to bring a civil action arising out of the same facts.

(7) An order under subsection (2), and an award for costs under subsection (3), may be filed in an appropriate civil court of competent jurisdiction and shall be deemed to be an order of that court for the purposes of enforcement.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. ^{Commencement}

6. The short title of this Act is the *Health Care Accessi-* ^{Short title}
bility Act, 1985.

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 95

An Act respecting Science North

The Hon. L. Munro
Minister of Citizenship and Culture



1st Reading December 19th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to continue and provide for the operation of Science North (now known as the Sudbury Science Centre).

Bill 95**1985****An Act respecting Science North**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the board of trustees of the Centre;

“Centre” means Science North;

“Minister” means the Minister of Citizenship and Culture or such other member of the Executive Council as the Lieutenant Governor in Council designates.

2.—(1) The corporation without share capital incorporated by letters patent dated the 8th day of December, 1980 and known as Sudbury Science Centre is continued under the name of “Science North” and “Science Nord” and the Centre may be legally designated by either or both names. Sudbury
Science
Centre
continued
as Science
North/Science
Nord

(2) The Centre shall consist of the trustees of the Board. Idem

(3) The Centre shall have a seal, which shall be adopted by the Board by by-law. Seal

(4) The fiscal year of the Centre begins on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal
year

(5) The *Corporations Act* does not apply to the Centre. R.S.O. 1980,
c. 95 not
to apply

(6) The letters patent of the Centre are revoked but the revocation of the letters patent does not affect the rights or obligations of the Centre or any by-law, resolution or appointment of the Centre except to the extent that the by-law, resolution or appointment is inconsistent with this Act. Letters
patent
revoked

Services in
French and
English

(7) The programs and services of the Centre shall be available in both French and English.

Objects of
the Centre

3. The objects of the Centre are,

- (a) to depict to the public and to conduct a program of education, throughout northern Ontario, in the origins, development and progress of science and technology and their relationship to society;
- (b) to operate and maintain a model mine;
- (c) to collect, develop and exhibit objects and displays and to maintain and operate a museum, science centre and related facilities for the furtherance of the objects of the Centre;
- (d) to stimulate the interest of the public, throughout northern Ontario, in matters depicted by the Centre; and
- (e) to develop, produce and market exhibits and to sell exhibits and provide consulting services.

Board of
trustees

4.—(1) The affairs of the Centre shall be managed and controlled by the Board which shall consist of at least fifteen trustees appointed by the Lieutenant Governor in Council for a term of three years.

Initial
terms of
office

(2) Notwithstanding subsection (1), on the first appointment of trustees, as nearly as possible, one-third shall be appointed for a one-year term, one-third shall be appointed for a two-year term and one-third shall be appointed for a three-year term.

Vacancies

(3) Where a vacancy occurs on the Board, the vacancy may be filled for the remainder of the term by appointment in the same manner as the original appointment.

Re-election
and
reappointment

(4) A trustee may be reappointed but may not serve for more than two terms.

Chairman,
vice-chairman

(5) The Lieutenant Governor in Council shall designate one of the trustees as chairman and another as vice-chairman of the Board.

Compensa-
tion

(6) The trustees shall serve without compensation and no trustee shall directly or indirectly receive any remuneration but reasonable expenses incurred by a trustee in the performance of his or her duty may be paid.

(7) A majority of the trustees constitutes a quorum of the Board. Quorum

(8) Notwithstanding subsection (1), the persons who were directors of the Centre immediately before the coming into force of this Act are the first trustees of the Centre under this Act and shall be the trustees of the Centre until the Board is reorganized in accordance with subsection (1). First Board,
reorganiza-
tion,
etc.

5.—(1) The Board has all the powers necessary or convenient to perform its duties or achieve the objects of the Centre. Powers
of Board

(2) The Centre is for all purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. Crown
agency

(3) The Board may, subject to the approval of the Minister, make by-laws regulating its proceedings and generally for the conduct and management of its internal affairs. By-laws

(4) A by-law establishing a committee of the Board may delegate to the committee such powers and duties of the Board as are determined in the by-law. Delegation
to
committees

(5) The Board is responsible to the Minister. Responsible
to Minister

(6) The chairman shall preside at all meetings of the Board and, in the chairman's absence or if that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. Chairman

6.—(1) The Board, with the approval of the Minister, may appoint a director of the Centre and the Board may appoint other officers and employees as are considered necessary for the proper conduct of the business of the Centre. Officers and
employees

(2) The director of the Centre shall receive such remuneration as the Lieutenant Governor in Council may determine, payable out of the general fund of the Centre. Remuneration
of director

(3) The Board, with the approval of the Minister, may fix the salaries and benefits of the officers and employees of the Centre and may provide for the retirement and superannuation of such persons. Salaries, etc.,
of employees

(4) The director of the Centre shall have the management and administration of the Centre, subject to the supervision and direction of the Board. Duties of
director

| | |
|---|--|
| Funds | 7. —(1) The moneys for the purposes of the Centre shall be paid out of the moneys that are appropriated therefor by the Legislature. |
| Idem | (2) The Board may acquire property for the Centre by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such property in the promotion of its objects, subject to the terms, if any, upon which the property was acquired. |
| Surplus money | (3) Any surplus money shall, on the order of the Lieutenant Governor in Council, be paid into and form part of the Consolidated Revenue Fund. |
| Tax exemption R.S.O. 1980, c. 454 | 8. —(1) The Centre is exempt from taxes imposed under any Act of the Legislature except the <i>Retail Sales Tax Act</i> . |
| Deemed exemption R.S.O. 1980, cc. 441, 31 | (2) For the purposes of subsection 71 (10) of the <i>Regional Municipality of Sudbury Act</i> , the exemption of real property from taxation granted under subsection (1) shall be deemed to be an exemption provided under section 3 of the <i>Assessment Act</i> . |
| General fund | 9. —(1) The Board shall establish and maintain a general fund for the Centre which shall consist of all money received by the Centre from any source, except money referred to in subsection 10 (1). |
| Idem | (2) The Board may expend money from the general fund of the Centre for the purposes set out in clauses 3 (a), (b), (c) and (d). |
| Investment of funds R.S.O. 1980, c. 512 | (3) Money in the general fund of the Centre that is not immediately required for the Centre's purposes, and the proceeds of all property that comes to the Centre, subject to any trust affecting them, may be invested in such investments as the Board considers proper and that are permissible for trustees under the <i>Trustee Act</i> . |
| Special fund | 10. —(1) The Board shall establish and maintain a special fund for the Centre which shall consist of all money received from the sale of exhibits, the provision of consulting services and the income from any investment made under subsection (3). |
| Idem | (2) The Board may expend money from the special fund of the Centre only for the purposes set out in clause 3 (e). |
| Investment of funds | (3) Money in the special fund of the Centre that is not immediately required for the purposes set out in clause 3 (e) |

may be invested in such investments as the Board considers proper and that are permissible for trustees under the *Trustee Act.*

R.S.O. 1980,
c. 512

11. Subject to the approval of the Lieutenant Governor in Council, the Board may borrow money for the purposes of the Centre upon the credit of the Centre and may give such security against any property of the Centre by way of mortgage, debenture or otherwise as the Board determines.

Borrowing power

12. Nothing in this Act authorizes the Centre to alienate or use as security any real or personal property given, devised or bequeathed to it with a condition annexed to the gift that the property not be alienated or used as security.

Trust property

13. The accounts and financial transactions of the Centre shall be audited annually by the Provincial Auditor and a report of the audit shall be made to the Board and to the Minister.

Audit

14. Upon the dissolution of the Centre and after the payment of all debts and liabilities, the remaining property of the Centre is vested in Her Majesty in right of Ontario.

Dissolution

15. The Board shall make to the Minister an annual report on the affairs of the Centre and such other reports as the Minister may request and the Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Annual report, etc.

16.—(1) The Lieutenant Governor in Council may make regulations.

Regulations

- (a) establishing one or more endowment funds in furtherance of the objects of the Centre, and governing such funds; and
- (b) regulating and governing the use by the public of the facilities, property and equipment of the Centre.

(2) A person who contravenes a regulation made under clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Penalty

17. This Act comes into force on the day it receives Royal Assent.

Commencement

Short title

18. The short title of this Act is the *Science North Act, 1985*.

Bill 95

An Act respecting Science North

The Hon. L. Munro

Minister of Citizenship and Culture



1st Reading December 19th, 1985

2nd Reading January 14th, 1986

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to continue and provide for the operation of Science North (now known as the Sudbury Science Centre).

Bill 95**1986****An Act respecting Science North**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the board of trustees of the Centre;

“Centre” means Science North;

“Minister” means the Minister of Citizenship and Culture or such other member of the Executive Council as the Lieutenant Governor in Council designates.

2.—(1) The corporation without share capital incorporated by letters patent dated the 8th day of December, 1980 and known as Sudbury Science Centre is continued under the name of “Science North” and “Science Nord” and the Centre may be legally designated by either or both names. Sudbury
Science
Centre
continued
as Science
North/Science
Nord

(2) The Centre shall consist of the trustees of the Board. Idem

(3) The Centre shall have a seal, which shall be adopted by the Board by by-law. Seal

(4) The fiscal year of the Centre begins on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal
year

(5) The *Corporations Act* does not apply to the Centre. R.S.O. 1980,
c. 95 not
to apply

(6) The letters patent of the Centre are revoked but the revocation of the letters patent does not affect the rights or obligations of the Centre or any by-law, resolution or appointment of the Centre except to the extent that the by-law, resolution or appointment is inconsistent with this Act. Letters
patent
revoked

Services in French and English

(7) The programs and services of the Centre shall be available in both French and English.

Objects of the Centre

3. The objects of the Centre are,

- (a) to depict to the public and to conduct a program of education, throughout northern Ontario, in the origins, development and progress of science and technology and their relationship to society;
- (b) to operate and maintain a model mine;
- (c) to collect, develop and exhibit objects and displays and to maintain and operate a museum, science centre and related facilities for the furtherance of the objects of the Centre;
- (d) to stimulate the interest of the public, throughout northern Ontario, in matters depicted by the Centre; and
- (e) to develop, produce and market exhibits and to sell exhibits and provide consulting services.

Board of trustees

4.—(1) The affairs of the Centre shall be managed and controlled by the Board which shall consist of at least fifteen trustees appointed by the Lieutenant Governor in Council for a term of three years.

Initial terms of office

(2) Notwithstanding subsection (1), on the first appointment of trustees, as nearly as possible, one-third shall be appointed for a one-year term, one-third shall be appointed for a two-year term and one-third shall be appointed for a three-year term.

Vacancies

(3) Where a vacancy occurs on the Board, the vacancy may be filled for the remainder of the term by appointment in the same manner as the original appointment.

Re-election and reappointment

(4) A trustee may be reappointed but may not serve for more than two terms.

Chairman, vice-chairman

(5) The Lieutenant Governor in Council shall designate one of the trustees as chairman and another as vice-chairman of the Board.

Compensation

(6) The trustees shall serve without compensation and no trustee shall directly or indirectly receive any remuneration but reasonable expenses incurred by a trustee in the performance of his or her duty may be paid.

(7) A majority of the trustees constitutes a quorum of the Board. Quorum

(8) Notwithstanding subsection (1), the persons who were directors of the Centre immediately before the coming into force of this Act are the first trustees of the Centre under this Act and shall be the trustees of the Centre until the Board is reorganized in accordance with subsection (1). First Board, reorganization, etc.

5.—(1) The Board has all the powers necessary or convenient to perform its duties or achieve the objects of the Centre. Powers of Board

(2) The Centre is for all purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. Crown agency

(3) The Board may, subject to the approval of the Minister, make by-laws regulating its proceedings and generally for the conduct and management of its internal affairs. By-laws

(4) A by-law establishing a committee of the Board may delegate to the committee such powers and duties of the Board as are determined in the by-law. Delegation to committees

(5) The Board is responsible to the Minister. Responsible to Minister

(6) The chairman shall preside at all meetings of the Board and, in the chairman's absence or if that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. Chairman

6.—(1) The Board, with the approval of the Minister, may appoint a director of the Centre and the Board may appoint other officers and employees as are considered necessary for the proper conduct of the business of the Centre. Officers and employees

(2) The director of the Centre shall receive such remuneration as the Lieutenant Governor in Council may determine, payable out of the general fund of the Centre. Remuneration of director

(3) The Board, with the approval of the Minister, may fix the salaries and benefits of the officers and employees of the Centre and may provide for the retirement and superannuation of such persons. Salaries, etc., of employees

(4) The director of the Centre shall have the management and administration of the Centre, subject to the supervision and direction of the Board. Duties of director

Funds

7.—(1) The moneys for the purposes of the Centre shall be paid out of the moneys that are appropriated therefor by the Legislature.

Idem

(2) The Board may acquire property for the Centre by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such property in the promotion of its objects, subject to the terms, if any, upon which the property was acquired.

Surplus
money

(3) Any surplus money shall, on the order of the Lieutenant Governor in Council, be paid into and form part of the Consolidated Revenue Fund.

Tax
exemption
R.S.O. 1980,
c. 454Deemed
exemption
R.S.O. 1980,
cc. 441, 31

8.—(1) The Centre is exempt from taxes imposed under any Act of the Legislature except the *Retail Sales Tax Act*.

(2) For the purposes of subsection 71 (10) of the *Regional Municipality of Sudbury Act*, the exemption of real property from taxation granted under subsection (1) shall be deemed to be an exemption provided under section 3 of the *Assessment Act*.

General
fund

9.—(1) The Board shall establish and maintain a general fund for the Centre which shall consist of all money received by the Centre from any source, except money referred to in subsection 10 (1).

Idem

(2) The Board may expend money from the general fund of the Centre for the purposes set out in clauses 3 (a), (b), (c) and (d).

Investment
of fundsR.S.O. 1980.
c. 512

(3) Money in the general fund of the Centre that is not immediately required for the Centre's purposes, and the proceeds of all property that comes to the Centre, subject to any trust affecting them, may be invested in such investments as the Board considers proper and that are permissible for trustees under the *Trustee Act*.

Special
fund

10.—(1) The Board shall establish and maintain a special fund for the Centre which shall consist of all money received from the sale of exhibits, the provision of consulting services and the income from any investment made under subsection (3).

Idem

(2) The Board may expend money from the special fund of the Centre only for the purposes set out in clause 3 (e).

Investment
of funds

(3) Money in the special fund of the Centre that is not immediately required for the purposes set out in clause 3 (e)

may be invested in such investments as the Board considers proper and that are permissible for trustees under the *Trustee Act*.

R.S.O. 1980,
c. 512

11. Subject to the approval of the Lieutenant Governor in Council, the Board may borrow money for the purposes of the Centre upon the credit of the Centre and may give such security against any property of the Centre by way of mortgage, debenture or otherwise as the Board determines.

Borrowing power

12. Nothing in this Act authorizes the Centre to alienate or use as security any real or personal property given, devised or bequeathed to it with a condition annexed to the gift that the property not be alienated or used as security.

Trust property

13. The Board shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Centre annually.

Auditors
R.S.O. 1980,
c. 405

14. Upon the dissolution of the Centre and after the payment of all debts and liabilities, the remaining property of the Centre is vested in Her Majesty in right of Ontario.

Dissolution

15. The Board shall make to the Minister an annual report on the affairs of the Centre and such other reports as the Minister may request and the Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Annual report, etc.

16.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) establishing one or more endowment funds in furtherance of the objects of the Centre, and governing such funds; and
- (b) regulating and governing the use by the public of the facilities, property and equipment of the Centre.

(2) A person who contravenes a regulation made under clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Penalty

17. This Act comes into force on the day it receives Royal Assent.

Commencement

18. The short title of this Act is the *Science North Act*, 1986.

Short title

Bill 95

(*Chapter 5
Statutes of Ontario, 1986*)

An Act respecting Science North

The Hon. L. Munro
Minister of Citizenship and Culture



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 19th, 1985 |
| <i>2nd Reading</i> | January 14th, 1986 |
| <i>3rd Reading</i> | January 17th, 1986 |
| <i>Royal Assent</i> | January 17th, 1986 |

Bill 95**1986**

An Act respecting Science North

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the board of trustees of the Centre;

“Centre” means Science North;

“Minister” means the Minister of Citizenship and Culture or such other member of the Executive Council as the Lieutenant Governor in Council designates.

2.—(1) The corporation without share capital incorporated by letters patent dated the 8th day of December, 1980 and known as Sudbury Science Centre is continued under the name of “Science North” and “Science Nord” and the Centre may be legally designated by either or both names.

Sudbury
Science
Centre
continued
as Science
North/Science
Nord

(2) The Centre shall consist of the trustees of the Board.

Idem

(3) The Centre shall have a seal, which shall be adopted by the Board by by-law.

Seal

(4) The fiscal year of the Centre begins on the 1st day of April in each year and ends on the 31st day of March in the following year.

Fiscal
year

(5) The *Corporations Act* does not apply to the Centre.

R.S.O. 1980,
c. 95 not
to apply

(6) The letters patent of the Centre are revoked but the revocation of the letters patent does not affect the rights or obligations of the Centre or any by-law, resolution or appointment of the Centre except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Letters
patent
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Services in
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(7) The programs and services of the Centre shall be available in both French and English.

Objects of
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3. The objects of the Centre are,

- (a) to depict to the public and to conduct a program of education, throughout northern Ontario, in the origins, development and progress of science and technology and their relationship to society;
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terms of
office

(2) Notwithstanding subsection (1), on the first appointment of trustees, as nearly as possible, one-third shall be appointed for a one-year term, one-third shall be appointed for a two-year term and one-third shall be appointed for a three-year term.

Vacancies

(3) Where a vacancy occurs on the Board, the vacancy may be filled for the remainder of the term by appointment in the same manner as the original appointment.

Re-election
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reappointment

(4) A trustee may be reappointed but may not serve for more than two terms.

Chairman,
vice-chairman

(5) The Lieutenant Governor in Council shall designate one of the trustees as chairman and another as vice-chairman of the Board.

Compen-
sation

(6) The trustees shall serve without compensation and no trustee shall directly or indirectly receive any remuneration but reasonable expenses incurred by a trustee in the performance of his or her duty may be paid.

(7) A majority of the trustees constitutes a quorum of the Board. Quorum

(8) Notwithstanding subsection (1), the persons who were directors of the Centre immediately before the coming into force of this Act are the first trustees of the Centre under this Act and shall be the trustees of the Centre until the Board is reorganized in accordance with subsection (1). First Board, reorganization, etc.

5.—(1) The Board has all the powers necessary or convenient to perform its duties or achieve the objects of the Centre. Powers of Board

(2) The Centre is for all purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. Crown agency

(3) The Board may, subject to the approval of the Minister, make by-laws regulating its proceedings and generally for the conduct and management of its internal affairs. By-laws

(4) A by-law establishing a committee of the Board may delegate to the committee such powers and duties of the Board as are determined in the by-law. Delegation to committees

(5) The Board is responsible to the Minister. Responsible to Minister

(6) The chairman shall preside at all meetings of the Board and, in the chairman's absence or if that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. Chairman

6.—(1) The Board, with the approval of the Minister, may appoint a director of the Centre and the Board may appoint other officers and employees as are considered necessary for the proper conduct of the business of the Centre. Officers and employees

(2) The director of the Centre shall receive such remuneration as the Lieutenant Governor in Council may determine, payable out of the general fund of the Centre. Remuneration of director

(3) The Board, with the approval of the Minister, may fix the salaries and benefits of the officers and employees of the Centre and may provide for the retirement and superannuation of such persons. Salaries, etc., of employees

(4) The director of the Centre shall have the management and administration of the Centre, subject to the supervision and direction of the Board. Duties of director

Funds

7.—(1) The moneys for the purposes of the Centre shall be paid out of the moneys that are appropriated therefor by the Legislature.

Idem

(2) The Board may acquire property for the Centre by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such property in the promotion of its objects, subject to the terms, if any, upon which the property was acquired.

Surplus
money

(3) Any surplus money shall, on the order of the Lieutenant Governor in Council, be paid into and form part of the Consolidated Revenue Fund.

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exemption
R.S.O. 1980,
c. 454

8.—(1) The Centre is exempt from taxes imposed under any Act of the Legislature except the *Retail Sales Tax Act*.

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exemption
R.S.O. 1980,
cc. 441, 31

(2) For the purposes of subsection 71 (10) of the *Regional Municipality of Sudbury Act*, the exemption of real property from taxation granted under subsection (1) shall be deemed to be an exemption provided under section 3 of the *Assessment Act*.

General
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9.—(1) The Board shall establish and maintain a general fund for the Centre which shall consist of all money received by the Centre from any source, except money referred to in subsection 10 (1).

Idem

(2) The Board may expend money from the general fund of the Centre for the purposes set out in clauses 3 (a), (b), (c) and (d).

Investment
of fundsR.S.O. 1980,
c. 512

(3) Money in the general fund of the Centre that is not immediately required for the Centre's purposes, and the proceeds of all property that comes to the Centre, subject to any trust affecting them, may be invested in such investments as the Board considers proper and that are permissible for trustees under the *Trustee Act*.

Special
fund

10.—(1) The Board shall establish and maintain a special fund for the Centre which shall consist of all money received from the sale of exhibits, the provision of consulting services and the income from any investment made under subsection (3).

Idem

(2) The Board may expend money from the special fund of the Centre only for the purposes set out in clause 3 (e).

Investment
of funds

(3) Money in the special fund of the Centre that is not immediately required for the purposes set out in clause 3 (e)

may be invested in such investments as the Board considers proper and that are permissible for trustees under the *Trustee Act*.

R.S.O. 1980.
c. 512

11. Subject to the approval of the Lieutenant Governor in Council, the Board may borrow money for the purposes of the Centre upon the credit of the Centre and may give such security against any property of the Centre by way of mortgage, debenture or otherwise as the Board determines.

Borrowing power

12. Nothing in this Act authorizes the Centre to alienate or use as security any real or personal property given, devised or bequeathed to it with a condition annexed to the gift that the property not be alienated or used as security.

Trust property

13. The Board shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Centre annually.

Auditors
R.S.O. 1980,
c. 405

14. Upon the dissolution of the Centre and after the payment of all debts and liabilities, the remaining property of the Centre is vested in Her Majesty in right of Ontario.

Dissolution

15. The Board shall make to the Minister an annual report on the affairs of the Centre and such other reports as the Minister may request and the Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Annual report, etc.

16.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) establishing one or more endowment funds in furtherance of the objects of the Centre, and governing such funds; and
- (b) regulating and governing the use by the public of the facilities, property and equipment of the Centre.

(2) A person who contravenes a regulation made under clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Penalty

17. This Act comes into force on the day it receives Royal Assent.

Commencement

18. The short title of this Act is the *Science North Act*, 1986.

Short title

Bill 96

An Act to acquire the Assets of Inco Limited

Mr. Martel



1st Reading December 19th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to vest the title and control of the assets situate in Ontario of Inco Limited in a Crown corporation, The Ontario Nickel Corporation. If compensation cannot be agreed upon, provision is made for arbitration. The objects of The Ontario Nickel Corporation include the task of operating and maintaining the assets of Inco Limited so as to provide employment and other economic benefits to the Province of Ontario.

Bill 96**1985****An Act to acquire the Assets of Inco Limited**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “Corporation” means The Ontario Nickel Corporation. Interpretation

2.—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of “The Ontario Nickel Corporation”. The Ontario Nickel Corporation established

(2) There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council. Board of Directors

(3) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board. Chairman

(4) The Corporation shall have a seal which shall be adopted by resolution or by-law. Seal

3.—(1) The affairs of the Corporation are under the management and control of the Board of Directors. Management

(2) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman. Chairman to preside

(3) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board. Quorum

(4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By-laws

4. The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act* R.S.O. 1980, c. 95. Powers of Board

R.S.O. 1980.
c. 95

and section 23 of that Act, except clauses (1) (m), (p), (q), (r), (s), (t), (u) and (v), but otherwise the *Corporations Act* does not apply to the Corporation.

Objects

5. The objects of the Corporation are to,

- (a) take possession of the property, both real and personal, and the works and undertakings of Inco Limited and its subsidiaries situated in the Province of Ontario; and
- (b) create, develop and increase income, employment, and other economic benefits to the Province by operating and maintaining, or by encouraging and assisting in the establishment, expansion and continued operation and maintenance of the property, works and undertakings acquired and possessed under this Act.

Head office

6. The head office of the Corporation shall be in The Regional Municipality of Sudbury.

Assets of
Inco vest
in the
Corporation

7. All assets, including all real and personal property, works and undertakings, of Inco Limited and its subsidiaries situated in Ontario are hereby vested in The Ontario Nickel Corporation and the Corporation is hereby entitled to the possession, management and control of the said assets.

Notice of
arbitration

8.—(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Ontario Municipal Board.

Idem

R.S.O. 1980.
c. 148

(2) The notice of arbitration referred to in subsection (1) shall be deemed to be a notice under clause 26 (b) of the *Expropriations Act* and, upon service of the notice, the practice and procedure under the *Expropriations Act* shall apply to the arbitration under this Act.

Application
of
R.S.O. 1980.
c. 148

9.—(1) Sections 29, 30, 33, 35 and 36 of the *Expropriations Act* apply to the taking of the assets referred to in section 7 in the same manner as if they were land.

Idem

(2) Compensation for the assets referred to in section 7 is to be determined in accordance with sections 13, 14, 16, 17, subsection 19 (2) and section 20 of the *Expropriations Act* in the same manner as if they were land.

(3) For the purposes of an arbitration under this Act, a reference to "expropriating authority" and to "statutory authority" in the *Expropriations Act* is a reference to the Corporation.

Interpre-
tationR.S.O. 1980,
c. 148

10. The compensation payable as a result of this Act stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets.

Compen-
sation

11. The *Bulk Sales Act* does not apply to the transfer of assets provided for in this Act.

R.S.O. 1980,
c. 52
does not
applyAnnual
report

12. The Corporation shall, after the close of each fiscal year, deliver to the Minister of Natural Resources an annual report upon the affairs of the Corporation and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

13. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

14. The short title of this Act is the *Inco Limited Acquisition Act, 1985*.

Short title

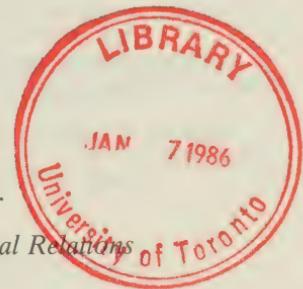
1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1985

Bill 97

An Act respecting Amusement Devices

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations



1st Reading December 20th, 1985

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to regulate the operation of amusement rides in the interest of the safety of the riders or users.

The effect of the Bill is limited to rides that are available to the public.

The ride or device is required to be registered with the Ministry at which time a permit will be issued for it if certain prescribed standards are met.

The person carrying on the business of operating rides must also be licensed.

It will be an offence to operate an unsafe ride or to operate it in an unsafe manner.

Inspectors will be appointed to check on the rides. The inspectors will have the power to close down rides that are considered unsafe.

A system of appeals is provided where permits or licences are refused or rides are closed down.

Bill 97**1985****An Act respecting Amusement Devices**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“amusement device” means a machine, contrivance, structure or vehicle used in an amusement park to entertain members of the public by moving them or causing them to be moved;

“amusement park” means a facility, open to the public, used in connection with a carnival, fair, shopping centre, resort, park or place of entertainment where amusement devices are provided;

“Deputy Minister” means the Deputy Minister of Consumer and Commercial Relations;

“Director” means the Director of the Elevating Devices Branch of the Ministry;

“licensee” means a person licensed under this Act;

“Ministry” means the Ministry of Consumer and Commercial Relations;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

2. This Act does not apply to,

Non-application

(a) amusement devices operated by muscular power only that are provided for children in a public park, playground or similar facility;

(b) coin-operated amusement devices designed for one or two children;

(c) trains, vehicles or conveyances operated solely for transportation purposes; or

R.S.O. 1980,
c. 135

(d) devices regulated under the *Elevating Devices Act*.

License
required

3. No person shall carry on the business of operating amusement devices except under the authority of and in accordance with a licence.

Permit
required

4.—(1) No person shall operate an amusement device unless there is a current permit issued by the Director for the device.

Entitlement
to
permit

(2) Every applicant for a permit for an amusement device is entitled to the permit upon the prescribed conditions being met.

Restrictions

(3) Any permit may be granted subject to such prescribed restrictions as the Director considers appropriate.

Changes
require
consent

(4) No person shall significantly alter an amusement device after a permit has been issued for it without express consent of the Director.

Unsafe
operation

5.—(1) No person shall operate an amusement device or cause or permit it to be operated,

(a) if that person knows or could reasonably be expected to know that the device is not safe to operate;

(b) in an unsafe manner; or

(c) using an unsafe practice.

Consent
to operate

(2) No person shall operate or cause or permit the operation of an amusement device that is involved in an accident that results in the death or serious injury to any person without the consent of the Director.

Tampering

(3) No person shall remove, displace, interfere with or damage any device installed in or about an amusement device for its safe operation.

Licence

6.—(1) Every applicant for a licence under this Act who meets the prescribed conditions is entitled to receive the licence.

Refusal to
license

(2) The Director may refuse to grant a licence to any applicant who does not meet the prescribed conditions.

(3) Any licence may be granted subject to such prescribed restrictions as the Director considers appropriate.

7.—(1) The Director may, after a hearing, revoke or suspend any licence if the licensee is in contravention of any provision of this Act or the regulations or of a restriction or condition in the licence or cancel any permit if there is a contravention of a restriction or condition in the permit.

(2) A revocation, suspension or cancellation under subsection (1) does not take effect until final disposition of an appeal or the expiration of the thirty-day period for appeal without an appeal being filed.

Revocation or suspension

Delayed effect

8.—(1) Where the Director refuses to,

- (a) issue a permit for an amusement device;
- (b) consent to an alteration to an amusement device;
- (c) grant a licence; or
- (d) revoke an order made under section 11,

or where the Director,

- (e) grants a permit or licence subject to restrictions;
- (f) cancels a permit; or
- (g) revokes or suspends a licence,

the applicant, permit holder or licensee, as the case may be, may appeal to the District Court by filing a notice of appeal within thirty days after receiving notice of the Director's decision.

(2) On an appeal under subsection (1), the Court may order the Director to take such action as the Court considers proper.

(3) The Director is a party to every appeal under this section.

Director is party

9.—(1) The Deputy Minister may designate in writing any employee of the Crown as an inspector for the purpose of this Act.

Inspectors

(2) For the purposes of this Act and the regulations, an inspector designated under subsection (1) or a police officer,

Powers

- (a) may enter on any grounds or premises, without warrant, wherein there is reason to believe that an amusement device is being operated, installed or repaired, to inspect or observe the operation of the device;
- (b) may enter on any grounds or premises, at any time reasonable in the circumstances, to inspect an amusement device;
- (c) may require any licensee to produce for inspection any licence, permit, report, record or other document that the licensee is required to have by this Act or the regulations;
- (d) may require any licensee to co-operate in and assist with an inspection; and
- (e) may inspect and test any amusement device or inspect any document that may be required to be produced under clause (c).

Assistants

(3) In the exercise of a power under subsection (2), an inspector or police officer may be accompanied by such experts or assistants as may be helpful in the exercise of the power.

Interpretation

(4) In subsection (2), "premises" does not include a dwelling.

Offences:
no
obstruction

10.—(1) No person shall obstruct or interfere with a person exercising a power under subsection 9 (2).

production
of documents

(2) No person shall refuse or fail to produce a document that is required under clause 9 (2) (c).

false
information,
etc.

(3) Where information is required to be furnished or a document is required to be provided or produced under this Act or the regulations, no person furnishing such information or providing or producing such document shall furnish false information or provide or produce a false document.

Order not
to use

11.—(1) An inspector who,

- (a) is of the opinion that an amusement device is not being operated safely or can not be operated safely; or
- (b) has reason to believe that an amusement device will be operated unsafely,

may order that the device not be operated or used and may affix a seal thereto.

(2) An inspector may revoke any order made under subsection (1) upon being satisfied that a potential danger no longer exists.

Revocation of order

(3) No person shall operate or cause or permit the operation of an amusement device in contravention of an order issued under subsection (1).

Offence: re operation

(4) No person shall remove a seal affixed by an inspector without the consent of an inspector.

removal of seal

(5) Subsection (4) does not apply upon the order that was made when the seal was affixed being revoked.

When order revoked

12.—(1) Any person affected by an order under subsection 11 (1) may appeal at any time to the Director in writing.

Appeal

(2) Upon receiving an appeal under subsection (1), the Director shall hold a hearing as soon as is reasonably possible.

Hearing

(3) After a hearing, the Director shall revoke the order that is the subject-matter of the hearing if the Director is satisfied that a potential danger does not exist or shall affirm the order if the Director is not so satisfied.

Decision

13. The Director may issue a certificate as to the registration or non-registration of an amusement device, the existence or non-existence of a licence, the revocation or suspension of a licence or the restrictions to which a licence is subject and every such certificate is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature.

Certificate by Director

14.—(1) An inspector shall not disclose to any person any information or document obtained under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

Disclosure of information

(2) The Director may disclose any information, documents or test results obtained under this Act and the regulations.

Idem

15.—(1) Every operator of an amusement device that is involved in the death or serious injury of a person shall ensure that the Director is immediately notified of the incident.

Notification of accident

(2) Every operator of an amusement device that is involved in an accident or an incident that indicates the device is poten-

Idem

tially dangerous shall notify the Director, by telephone, within twenty-four hours after the incident and shall submit to the Director, within seven days after the incident, a written report setting out full particulars of the incident.

Disturbing evidence

(3) No person, except for the purpose of rescuing a person injured in the accident, shall interfere with an amusement device involved in the death or serious injury of a person or disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident without permission of an inspector.

Penalty

16.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both, or if the person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Regulations

17.—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the registration of amusement devices and the issuing of permits therefor and prescribing the requirements to be met as conditions for registration and the issue of a permit;
- (b) prescribing conditions to be met for entitlement for a licence;
- (c) prescribing conditions and requirements for maintaining a licence or a permit;
- (d) prescribing forms and providing for their use;
- (e) prescribing information to be reported and providing for reports including the frequency, time and manner for reporting;
- (f) prescribing the information, records and documents to be kept;

- (g) prescribing classes of amusement devices;
- (h) prescribing classes of licensees;
- (i) regulating the use, location, design, construction, installation, blocking, operating, dismantling, removing, alteration, repair, maintenance, service, testing, transportation and inspection of amusement devices, parts thereof and equipment used in conjunction therewith;
- (j) prescribing qualifications, training and experience required by operators, attendants and mechanics working with amusement devices and prohibiting persons without the prescribed qualifications, training or experience from working with or being employed to work with amusement devices;
- (k) prescribing notices and markings to be used in conjunction with amusement devices and requiring their use;
- (l) prescribing conditions for the purposes of subsection 4 (3) or 6 (3);
- (m) prescribing fees;
- (n) exempting any amusement device or person or class or type thereof from any provision of this Act or the regulations.

(2) Any regulation may be general or specific in its application. ^{Idem}

(3) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code and may require compliance with any code adopted. ^{Codes}

(4) The Director may allow a variance from any code adopted under the regulations where, in the opinion of the Director, the variance would not detrimentally affect the safety of the amusement device. ^{Variance by Director}

(5) The Director may authorize the use of a new code or standard or changes to established codes or standards necessary to accommodate technological advances for a limited time and subject to any conditions specified. ^{Use of new codes, etc.}

Commence-
ment **18.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **19.** The short title of this Act is the *Amusement Devices Act, 1985*.

Bill 97

An Act respecting Amusement Devices

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 20th, 1985 |
| <i>2nd Reading</i> | January 14th, 1986 |
| <i>3rd Reading</i> | |
| <i>Royal Assent</i> | |

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The purpose of the Bill is to regulate the operation of amusement rides in the interest of the safety of the riders or users.

The effect of the Bill is limited to rides that are available to the public.

The ride or device is required to be registered with the Ministry at which time a permit will be issued for it if certain prescribed standards are met.

The person carrying on the business of operating rides must also be licensed and must carry liability insurance.

It will be an offence to operate an unsafe ride or to operate it in an unsafe manner.

Inspectors will be appointed to check on the rides. The inspectors will have the power to close down rides that are considered unsafe.

A system of appeals is provided where permits or licences are refused or rides are closed down.

Bill 97**1986****An Act respecting Amusement Devices**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“amusement device” means a machine, contrivance, structure or vehicle used in an amusement park to entertain members of the public by moving them or causing them to be moved;

“amusement park” means a facility, open to the public, used in connection with a carnival, fair, shopping centre, resort, park or place of entertainment where amusement devices are provided;

“Deputy Minister” means the Deputy Minister of Consumer and Commercial Relations;

“Director” means the Director of the Elevating Devices Branch of the Ministry;

“licensee” means a person licensed under this Act;

“Ministry” means the Ministry of Consumer and Commercial Relations;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

2. This Act does not apply to,

Non-application

- (a) amusement devices operated by muscular power only that are provided for children in a public park, playground or similar facility;
- (b) coin-operated amusement devices designed for one or two children;

(c) trains, vehicles or conveyances operated solely for transportation purposes; or

R.S.O. 1980,
c. 135

(d) devices regulated under the *Elevating Devices Act*.

Licence
required

3. No person shall carry on the business of operating amusement devices except under the authority of and in accordance with a licence.



Liability
insurance

4. Every person who carries on the business of operating amusement devices shall procure and maintain liability insurance in respect of the operation of the business in an amount not less than a prescribed amount.



Permit
required

5.—(1) No person shall operate an amusement device unless there is a current permit issued by the Director for the device.

Entitlement
to
permit

(2) Every applicant for a permit for an amusement device is entitled to the permit upon the prescribed conditions being met.

Restrictions

(3) Any permit may be granted subject to such prescribed restrictions as the Director considers appropriate.

Changes
require
consent

(4) No person shall significantly alter an amusement device after a permit has been issued for it without express consent of the Director.

Unsafe
operation

6.—(1) No person shall operate an amusement device or cause or permit it to be operated,

(a) if that person knows or could reasonably be expected to know that the device is not safe to operate;

(b) in an unsafe manner; or

(c) using an unsafe practice.

Consent
to operate

(2) No person shall operate or cause or permit the operation of an amusement device that is involved in an accident that results in the death or serious injury to any person without the consent of the Director.

Tampering

(3) No person shall remove, displace, interfere with or damage any device installed in or about an amusement device for its safe operation.

7.—(1) Every applicant for a licence under this Act who meets the prescribed conditions is entitled to receive the licence.

(2) The Director may refuse to grant a licence to any applicant who does not meet the prescribed conditions.

(3) Any licence may be granted subject to such prescribed restrictions as the Director considers appropriate.

8.—(1) The Director may, after a hearing, revoke or suspend any licence if the licensee is in contravention of any provision of this Act or the regulations or of a restriction or condition in the licence or cancel any permit if there is a contravention of a restriction or condition in the permit.

(2) A revocation, suspension or cancellation under subsection (1) does not take effect until final disposition of an appeal or the expiration of the thirty-day period for appeal without an appeal being filed.

9.—(1) Where the Director refuses to,

- (a) issue a permit for an amusement device;
- (b) consent to an alteration to an amusement device;
- (c) grant a licence; or
- (d) revoke an order made under section 12,

or where the Director,

- (e) grants a permit or licence subject to restrictions;
- (f) cancels a permit; or
- (g) revokes or suspends a licence,

the applicant, permit holder or licensee, as the case may be, may appeal to the District Court by filing a notice of appeal within thirty days after receiving notice of the Director's decision.

(2) On an appeal under subsection (1), the Court may order the Director to take such action as the Court considers proper.

(3) The Director is a party to every appeal under this section.

Licence

Refusal to license

Restrictions

Revocation or suspension

Delayed effect

Appeals

Director is party

Inspectors

10.—(1) The Deputy Minister may designate in writing any employee of the Crown as an inspector for the purpose of this Act.

Powers

(2) For the purposes of this Act and the regulations, an inspector designated under subsection (1) or a police officer,

- (a) may enter on any grounds or premises, without warrant, wherein there is reason to believe that an amusement device is being operated, installed or repaired, to inspect or observe the operation of the device;
- (b) may enter on any grounds or premises, at any time reasonable in the circumstances, to inspect an amusement device;
- (c) may require any licensee to produce for inspection any licence, permit, report, record or other document that the licensee is required to have by this Act or the regulations;
- (d) may require any licensee to co-operate in and assist with an inspection; and
- (e) may inspect and test any amusement device or inspect any document that may be required to be produced under clause (c).

Assistants

(3) In the exercise of a power under subsection (2), an inspector or police officer may be accompanied by such experts or assistants as may be helpful in the exercise of the power.

Interpretation

(4) In subsection (2), “premises” does not include a dwelling.

Offences:
no
obstruction

11.—(1) No person shall obstruct or interfere with a person exercising a power under subsection 10 (2).

production
of documents

(2) No person shall refuse or fail to produce a document that is required under clause 10 (2) (c).

false
information.
etc.

(3) Where information is required to be furnished or a document is required to be provided or produced under this Act or the regulations, no person furnishing such information or providing or producing such document shall furnish false information or provide or produce a false document.

Order not
to use

12.—(1) An inspector who,

- (a) is of the opinion that an amusement device is not being operated safely or can not be operated safely; or
- (b) has reason to believe that an amusement device will be operated unsafely,

may order that the device not be operated or used and may affix a seal thereto.

(2) An inspector may revoke any order made under subsection (1) upon being satisfied that a potential danger no longer exists.

Revocation
of order

(3) No person shall operate or cause or permit the operation of an amusement device in contravention of an order issued under subsection (1).

Offence:
re operation

(4) No person shall remove a seal affixed by an inspector without the consent of an inspector.

removal
of seal

(5) Subsection (4) does not apply upon the order that was made when the seal was affixed being revoked.

When order
revoked

13.—(1) Any person affected by an order under subsection 12 (1) may appeal at any time to the Director in writing.

Appeal

(2) Upon receiving an appeal under subsection (1), the Director shall hold a hearing as soon as is reasonably possible.

Hearing

(3) After a hearing, the Director shall revoke the order that is the subject-matter of the hearing if the Director is satisfied that a potential danger does not exist or shall affirm the order if the Director is not so satisfied.

Decision

14. The Director may issue a certificate as to the registration or non-registration of an amusement device, the existence or non-existence of a licence, the revocation or suspension of a licence or the restrictions to which a licence is subject and every such certificate is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature.

Certificate
by Director

15.—(1) An inspector shall not disclose to any person any information or document obtained under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

Disclosure of
information

(2) The Director may disclose any information, documents or test results obtained under this Act and the regulations.

Idem

Notification
of accident

16.—(1) Every operator of an amusement device that is involved in the death or serious injury of a person shall ensure that the Director is immediately notified of the incident.

Idem

(2) Every operator of an amusement device that is involved in an accident or an incident that indicates the device is potentially dangerous shall notify the Director, by telephone, within twenty-four hours after the incident and shall submit to the Director, within seven days after the incident, a written report setting out full particulars of the incident.

Disturbing
evidence

(3) No person, except for the purpose of rescuing a person injured in the accident, shall interfere with an amusement device involved in the death or serious injury of a person or disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident without permission of an inspector.

Penalty

17.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both, or if the person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Regulations

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the registration of amusement devices and the issuing of permits therefor and prescribing the requirements to be met as conditions for registration and the issue of a permit;
- (b) prescribing conditions to be met for entitlement for a licence;
- (c) prescribing conditions and requirements for maintaining a licence or a permit;
- (d) prescribing forms and providing for their use;

- (e) prescribing information to be reported and providing for reports including the frequency, time and manner for reporting;
- (f) prescribing the information, records and documents to be kept;
- (g) prescribing classes of amusement devices;
- (h) prescribing classes of licensees;
- (i) regulating the use, location, design, construction, installation, blocking, operating, dismantling, removing, alteration, repair, maintenance, service, testing, transportation and inspection of amusement devices, parts thereof and equipment used in conjunction therewith;
- (j) prescribing qualifications, training and experience required by operators, attendants and mechanics working with amusement devices and prohibiting persons without the prescribed qualifications, training or experience from working with or being employed to work with amusement devices;
- (k) prescribing notices and markings to be used in conjunction with amusement devices and requiring their use;
- (l) prescribing conditions for the purposes of subsection 5 (3) or 7 (3);
- (m) prescribing fees;
- (n) exempting any amusement device or person or class or type thereof from any provision of this Act or the regulations;
- (o) prescribing, for the purpose of section 4, the minimum amount of liability insurance that applies to any class or type of operation.

(2) Any regulation may be general or specific in its application. Idem

(3) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code and may require compliance with any code adopted. Codes

Variance
by Director

(4) The Director may allow a variance from any code adopted under the regulations where, in the opinion of the Director, the variance would not detrimentally affect the safety of the amusement device.

Use of new
codes, etc.

(5) The Director may authorize the use of a new code or standard or changes to established codes or standards necessary to accommodate technological advances for a limited time and subject to any conditions specified.

Commencement

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Amusement Devices Act, 1986*.

Bill 97

(*Chapter 6*
Statutes of Ontario, 1986)

An Act respecting Amusement Devices

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | December 20th, 1985 |
| <i>2nd Reading</i> | January 14th, 1986 |
| <i>3rd Reading</i> | January 17th, 1986 |
| <i>Royal Assent</i> | January 17th, 1986 |

Bill 97**1986**

An Act respecting Amusement Devices

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“amusement device” means a machine, contrivance, structure or vehicle used in an amusement park to entertain members of the public by moving them or causing them to be moved;

“amusement park” means a facility, open to the public, used in connection with a carnival, fair, shopping centre, resort, park or place of entertainment where amusement devices are provided;

“Deputy Minister” means the Deputy Minister of Consumer and Commercial Relations;

“Director” means the Director of the Elevating Devices Branch of the Ministry;

“licensee” means a person licensed under this Act;

“Ministry” means the Ministry of Consumer and Commercial Relations;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

2. This Act does not apply to,

Non-application

(a) amusement devices operated by muscular power only that are provided for children in a public park, playground or similar facility;

(b) coin-operated amusement devices designed for one or two children;

R.S.O. 1980,
c. 135

Licence
required

Liability
insurance

Permit
required

Entitlement
to
permit

Restrictions

Changes
require
consent

Unsafe
operation

Consent
to operate

Tampering

(c) trains, vehicles or conveyances operated solely for transportation purposes; or

(d) devices regulated under the *Elevating Devices Act*.

3. No person shall carry on the business of operating amusement devices except under the authority of and in accordance with a licence.

4. Every person who carries on the business of operating amusement devices shall procure and maintain liability insurance in respect of the operation of the business in an amount not less than a prescribed amount.

5.—(1) No person shall operate an amusement device unless there is a current permit issued by the Director for the device.

(2) Every applicant for a permit for an amusement device is entitled to the permit upon the prescribed conditions being met.

(3) Any permit may be granted subject to such prescribed restrictions as the Director considers appropriate.

(4) No person shall significantly alter an amusement device after a permit has been issued for it without express consent of the Director.

6.—(1) No person shall operate an amusement device or cause or permit it to be operated,

(a) if that person knows or could reasonably be expected to know that the device is not safe to operate;

(b) in an unsafe manner; or

(c) using an unsafe practice.

(2) No person shall operate or cause or permit the operation of an amusement device that is involved in an accident that results in the death or serious injury to any person without the consent of the Director.

(3) No person shall remove, displace, interfere with or damage any device installed in or about an amusement device for its safe operation.

7.—(1) Every applicant for a licence under this Act who meets the prescribed conditions is entitled to receive the licence.

(2) The Director may refuse to grant a licence to any applicant who does not meet the prescribed conditions.

(3) Any licence may be granted subject to such prescribed restrictions as the Director considers appropriate.

8.—(1) The Director may, after a hearing, revoke or suspend any licence if the licensee is in contravention of any provision of this Act or the regulations or of a restriction or condition in the licence or cancel any permit if there is a contravention of a restriction or condition in the permit.

(2) A revocation, suspension or cancellation under subsection (1) does not take effect until final disposition of an appeal or the expiration of the thirty-day period for appeal without an appeal being filed.

9.—(1) Where the Director refuses to,

- (a) issue a permit for an amusement device;
- (b) consent to an alteration to an amusement device;
- (c) grant a licence; or
- (d) revoke an order made under section 12,

or where the Director,

- (e) grants a permit or licence subject to restrictions;
- (f) cancels a permit; or
- (g) revokes or suspends a licence,

the applicant, permit holder or licensee, as the case may be, may appeal to the District Court by filing a notice of appeal within thirty days after receiving notice of the Director's decision.

(2) On an appeal under subsection (1), the Court may order the Director to take such action as the Court considers proper.

(3) The Director is a party to every appeal under this section.

Inspectors

10.—(1) The Deputy Minister may designate in writing any employee of the Crown as an inspector for the purpose of this Act.

Powers

(2) For the purposes of this Act and the regulations, an inspector designated under subsection (1) or a police officer,

- (a) may enter on any grounds or premises, without warrant, wherein there is reason to believe that an amusement device is being operated, installed or repaired, to inspect or observe the operation of the device;
- (b) may enter on any grounds or premises, at any time reasonable in the circumstances, to inspect an amusement device;
- (c) may require any licensee to produce for inspection any licence, permit, report, record or other document that the licensee is required to have by this Act or the regulations;
- (d) may require any licensee to co-operate in and assist with an inspection; and
- (e) may inspect and test any amusement device or inspect any document that may be required to be produced under clause (c).

Assistants

(3) In the exercise of a power under subsection (2), an inspector or police officer may be accompanied by such experts or assistants as may be helpful in the exercise of the power.

Interpretation

(4) In subsection (2), “premises” does not include a dwelling.

Offences:
no
obstruction

11.—(1) No person shall obstruct or interfere with a person exercising a power under subsection 10 (2).

production
of documents
etc.

(2) No person shall refuse or fail to produce a document that is required under clause 10 (2) (c).

false
information,
etc.

(3) Where information is required to be furnished or a document is required to be provided or produced under this Act or the regulations, no person furnishing such information or providing or producing such document shall furnish false information or provide or produce a false document.

Order not
to use

12.—(1) An inspector who,

- (a) is of the opinion that an amusement device is not being operated safely or can not be operated safely; or
- (b) has reason to believe that an amusement device will be operated unsafely,

may order that the device not be operated or used and may affix a seal thereto.

(2) An inspector may revoke any order made under subsection (1) upon being satisfied that a potential danger no longer exists.

(3) No person shall operate or cause or permit the operation of an amusement device in contravention of an order issued under subsection (1).

(4) No person shall remove a seal affixed by an inspector without the consent of an inspector.

(5) Subsection (4) does not apply upon the order that was made when the seal was affixed being revoked.

13.—(1) Any person affected by an order under subsection 12 (1) may appeal at any time to the Director in writing.

(2) Upon receiving an appeal under subsection (1), the Director shall hold a hearing as soon as is reasonably possible.

(3) After a hearing, the Director shall revoke the order that is the subject-matter of the hearing if the Director is satisfied that a potential danger does not exist or shall affirm the order if the Director is not so satisfied.

14. The Director may issue a certificate as to the registration or non-registration of an amusement device, the existence or non-existence of a licence, the revocation or suspension of a licence or the restrictions to which a licence is subject and every such certificate is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature.

15.—(1) An inspector shall not disclose to any person any information or document obtained under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

(2) The Director may disclose any information, documents or test results obtained under this Act and the regulations.

Revocation
of order

Offence:
re operation

removal
of seal

When order
revoked

Appeal

Hearing

Decision

Certificate
by Director

Disclosure of
information

Idem

Notification
of accident

16.—(1) Every operator of an amusement device that is involved in the death or serious injury of a person shall ensure that the Director is immediately notified of the incident.

Idem

(2) Every operator of an amusement device that is involved in an accident or an incident that indicates the device is potentially dangerous shall notify the Director, by telephone, within twenty-four hours after the incident and shall submit to the Director, within seven days after the incident, a written report setting out full particulars of the incident.

Disturbing
evidence

(3) No person, except for the purpose of rescuing a person injured in the accident, shall interfere with an amusement device involved in the death or serious injury of a person or disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident without permission of an inspector.

Penalty

17.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both, or if the person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Regulations

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the registration of amusement devices and the issuing of permits therefor and prescribing the requirements to be met as conditions for registration and the issue of a permit;
- (b) prescribing conditions to be met for entitlement for a licence;
- (c) prescribing conditions and requirements for maintaining a licence or a permit;
- (d) prescribing forms and providing for their use;

- (e) prescribing information to be reported and providing for reports including the frequency, time and manner for reporting;
- (f) prescribing the information, records and documents to be kept;
- (g) prescribing classes of amusement devices;
- (h) prescribing classes of licensees;
- (i) regulating the use, location, design, construction, installation, blocking, operating, dismantling, removing, alteration, repair, maintenance, service, testing, transportation and inspection of amusement devices, parts thereof and equipment used in conjunction therewith;
- (j) prescribing qualifications, training and experience required by operators, attendants and mechanics working with amusement devices and prohibiting persons without the prescribed qualifications, training or experience from working with or being employed to work with amusement devices;
- (k) prescribing notices and markings to be used in conjunction with amusement devices and requiring their use;
- (l) prescribing conditions for the purposes of subsection 5 (3) or 7 (3);
- (m) prescribing fees;
- (n) exempting any amusement device or person or class or type thereof from any provision of this Act or the regulations;
- (o) prescribing, for the purpose of section 4, the minimum amount of liability insurance that applies to any class or type of operation.

(2) Any regulation may be general or specific in its application. ^{Idem}

(3) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code and may require compliance with any code adopted. ^{Codes}

Variance
by Director

(4) The Director may allow a variance from any code adopted under the regulations where, in the opinion of the Director, the variance would not detrimentally affect the safety of the amusement device.

Use of new
codes, etc.

(5) The Director may authorize the use of a new code or standard or changes to established codes or standards necessary to accommodate technological advances for a limited time and subject to any conditions specified.

Commencement

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Amusement Devices Act, 1986*.

Bill 98

Government Bill

1ST SESSION, 33RD LEGISLATURE, ONTARIO
34 ELIZABETH II, 1986

Bill 98

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

The Hon. I. Scott
Attorney General



1st Reading January 9th, 1986
2nd Reading
3rd Reading
Royal Assent

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Projet de loi 98 du gouvernement

1^{re} SESSION, 33^e LÉGISLATURE, ONTARIO
34 ELIZABETH II, 1986

Projet de loi 98

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

L'honorable I. Scott
procureur général

1^{re} lecture 9 janvier 1986
2^e lecture
3^e lecture
sanction royale

Imprimé avec l'autorisation
de l'Assemblée législative par
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EXPLANATORY NOTES

The Bill implements the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Convention obliges contracting states to recognize and enforce foreign arbitral awards in the same way as domestic arbitral awards and to allow persons who have agreed to arbitrate an international dispute to stay other legal proceedings in order to arbitrate. It also permits contracting states to limit its application to awards originating in other contracting states and to limit its application to commercial arbitral awards.

The Bill applies to arbitration agreements and awards whether made before or after it is enacted. It provides that if a person has entered into an international arbitration agreement with regard to a commercial matter and the matter is litigated in Ontario, a party may have litigation of the matter stayed and the matter referred to arbitration, unless the arbitration agreement is found to be void, inoperative or incapable of being performed.

It also provides that a party may apply to the court for recognition of an international arbitral award made in a contracting state other than Canada under a commercial arbitration agreement. Once recognized, the award may be enforced as a judgment of the court. The court may refuse to recognize an award under the circumstances set out in section 6.

The court may stay enforcement proceedings in Ontario if an application has been made in the jurisdiction where the foreign arbitral award was made to set it aside. The Crown is bound by a foreign arbitral award to the same extent it would be by a judgment.

The Bill is to come into force on proclamation because Canada, rather than Ontario, will be a contracting state. The Bill will be proclaimed upon Canada's becoming a contracting state.

The Convention is set out in the Schedule to the Bill.

NOTES EXPLICATIVES

Le projet de loi met en oeuvre la Convention de l'Organisation des Nations Unies pour la reconnaissance et l'exécution des sentences arbitrales étrangères. La Convention oblige les États contractants à reconnaître et à exécuter les sentences arbitrales étrangères de la même façon que les sentences arbitrales nationales. La Convention permet aux personnes qui ont consenti à porter à l'arbitrage un différend international de suspendre toute autre action en justice afin de procéder à l'arbitrage. Elle permet aussi aux États contractants de restreindre son application aux sentences émanant d'autres États contractants ainsi qu'aux sentences arbitrales commerciales.

Le projet de loi s'applique aux conventions d'arbitrage et aux sentences, qu'elles soient rendues avant ou après la promulgation de la loi. Il prévoit que si une personne a conclu une convention d'arbitrage internationale concernant une affaire commerciale et si l'affaire est instruite en Ontario, une partie peut en faire suspendre l'instruction et faire renvoyer l'affaire à l'arbitrage, à moins que le tribunal ne reconnaisse que la convention d'arbitrage est caduque, inopérante ou non susceptible d'être appliquée.

Il prévoit en outre qu'une partie peut présenter au tribunal une requête en reconnaissance d'une sentence arbitrale internationale rendue dans un État contractant autre que le Canada en vertu d'une convention d'arbitrage commerciale. À la suite de sa reconnaissance, la sentence est exécutoire au même titre qu'un jugement rendu par le tribunal. Celui-ci peut refuser de reconnaître une sentence dans les circonstances énoncées dans l'article 6.

Le tribunal peut suspendre en Ontario l'instance d'exécution de la sentence arbitrale étrangère si une requête en annulation de la sentence a été présentée dans la compétence territoriale où elle a été rendue. Une sentence arbitrale étrangère lie la Couronne dans la même mesure que s'il s'agissait d'un jugement.

La loi entre en vigueur par proclamation parce que le Canada, plutôt que l'Ontario, sera un État contractant. La loi sera proclamée dès que le Canada deviendra un État contractant.

L'Annexe du projet de loi contient le texte de la Convention.

Bill 98**1986**

**An Act to Implement the
United Nations
Convention on the
Recognition and Enforcement of
Foreign Arbitral Awards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- | | |
|---|---|
| Definitions | 1. —(1) In this Act, |
| “convention d’arbitrage” | “arbitration agreement” means an agreement in writing, whether in the form of an arbitration clause in a contract or in the form of a separate agreement, under which the parties undertake to submit to arbitration all or any disputes which have arisen or which may arise between them in respect of a legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration and recognized as commercial by the law of Ontario; |
| “État contractant” | “Contracting State” means a State that is a Contracting State within the meaning of the Convention; |
| “Convention” | “Convention” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration in New York on June 10, 1958, the text of which is set out in the Schedule; |
| “sentence arbitrale étrangère” | “foreign arbitral award” means an arbitral award made pursuant to an international arbitration agreement and made in the territory of a Contracting State other than Canada; |
| “convention d’arbitrage internationale” | “international arbitration agreement” means an arbitration agreement, |
| | (a) that involves property that is outside Canada, |

Projet de loi 98**1986**

**Loi concernant la mise en oeuvre
de la Convention de l'Organisation
des Nations Unies pour la
reconnaissance et l'exécution
des sentences arbitrales étrangères**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente Définitions loi.

«Convention» La Convention pour la reconnaissance et l'exécution des sentences arbitrales étrangères adoptée par la Conférence des Nations Unies sur l'arbitrage commercial international tenue à New York le 10 juin 1958, et dont le texte est reproduit à l'Annexe. «Convention»

«convention d'arbitrage» Convention écrite, sous forme de clause compromissoire dans un contrat ou sous forme d'une convention séparée, aux termes de laquelle les parties décident de soumettre à l'arbitrage la totalité ou quelques-uns des différends s'élevant ou pouvant s'élever au sujet d'un rapport de droit, contractuel ou non contractuel, considéré comme commercial par la loi de l'Ontario et qui porte sur une question susceptible d'être réglée par voie d'arbitrage. «arbitration agreement»

«convention d'arbitrage internationale» Convention d'arbitrage, selon le cas : «international arbitration agreement»

- a) concernant des biens qui se trouvent à l'extérieur du Canada;
- b) prévoyant sa mise en oeuvre ou son exécution en grande partie à l'extérieur du Canada;
- c) à laquelle au moins l'une des parties est domiciliée ou réside ordinairement à l'extérieur du Canada.

«État contractant» S'entend au sens de la Convention.

«Contracting State»

(b) that envisages substantial performance or enforcement outside Canada, or

(c) at least one party to which is domiciled or ordinarily resident outside Canada;

“partie” “party” means a party to an arbitration agreement and includes a person claiming through or under a party.

Arbitration agreement in writing (2) An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication that provide a record of the arbitration agreement or in an exchange of statements of claim and defence in which the existence of an arbitration agreement is alleged by one party and not denied by another.

Application **2.** This Act applies to foreign arbitral awards and international arbitration agreements whether made before or after the coming into force of this Act.

Referral to arbitration **3.—(1)** If a proceeding commenced in any court includes a matter that the parties have agreed to arbitrate under an international arbitration agreement, the court, on motion of a party, shall refer the parties to arbitration, unless it finds that the arbitration agreement is void, inoperative or incapable of being performed.

Time of making motion (2) A party making a motion under subsection (1) shall do so no later than the time the party serves a document addressing the merits of the claim that gives rise to the motion.

Stay of court proceedings (3) If the court refers the parties to arbitration, the court shall stay the proceeding with respect to the matter to which the arbitration relates, unless that matter is contained in a defence of set-off in which case the court shall strike out the defence with respect to that matter.

Application to court **4.—(1)** A party seeking to enforce a foreign arbitral award in Ontario shall apply to the Supreme Court of Ontario or to the District Court for recognition of the foreign arbitral award.

Documents to be produced (2) A party making an application under subsection (1) shall produce to the court,

(a) the original arbitral award or a sworn or notarized copy of it; and

«partie» Partie à une convention d'arbitrage, y compris ses «party» ayants droit.

«sentence arbitrale étrangère» Sentence arbitrale rendue conformément à une convention d'arbitrage internationale dans le territoire d'un État contractant autre que le Canada.

(2) Une convention d'arbitrage est écrite si elle est consignée dans un document signé par les parties ou dans un échange de lettres, de communications télex, de télégrammes ou d'un autre moyen de télécommunication qui en atteste l'existence, ou encore dans l'échange d'une déclaration et d'une défense dans lequel l'existence d'une telle convention est alléguée par une partie et n'est pas niée par l'autre.

2 La présente loi s'applique aux sentences arbitrales étrangères et aux conventions d'arbitrage internationales, qu'elles soient rendues avant ou après l'entrée en vigueur de la présente loi.

3 (1) Si une instance introduite devant un tribunal comporte une question que les parties ont consenti à porter à l'arbitrage en vertu d'une convention d'arbitrage internationale, le tribunal, à la suite de la motion présentée par une partie, renvoie les parties à l'arbitrage. Toutefois, le renvoi n'a pas lieu si le tribunal constate que la convention est caduque, inopérante ou non susceptible d'être appliquée.

(2) La partie qui présente une motion en vertu du paragraphe (1) doit le faire au plus tard le jour où elle signifie le document qui concerne le bien-fondé de la demande qui donne lieu à la motion.

(3) Si le tribunal renvoie les parties à l'arbitrage, celui-ci ordonne la suspension de l'instance relativement à la question qui fait l'objet de l'arbitrage. Toutefois, si cette question figure dans une défense de compensation le tribunal radie la défense relativement à cette question.

4 (1) La partie qui demande l'exécution d'une sentence arbitrale étrangère en Ontario présente une requête à la Cour suprême de l'Ontario ou à la Cour de district pour obtenir la reconnaissance de la sentence arbitrale étrangère.

(2) La partie qui présente une requête aux termes du paragraphe (1) présente au tribunal :

- a) l'original de la sentence arbitrale ou une copie sous serment ou notariée de cet original;

«foreign
arbitral
award»

Convention
d'arbitrage
écrite

Champ d'ap-
plication

Renvoi à l'ar-
bitrage

Délai pour
présenter la
motion

Suspension de
l'instance

Requête de
reconnais-
sance

Documents à
présenter

(b) the original arbitration agreement or a sworn or notarized copy of it.

Proof of award

(3) A sworn or notarized statement of an arbitrator or an officer of an arbitral tribunal or board identifying a document as the arbitral award is, in the absence of evidence to the contrary, proof that the document is the original award.

Language of award or agreement

(4) Where a document referred to in subsection (2) is in a language other than English or French, the party seeking to enforce the foreign arbitral award shall produce to the court, in addition to the document, a translation of it into English or French and a sworn or notarized statement of the translator that the translation is accurate and complete.

Proof of contracting state

5. A certificate issued by or under the authority of the Secretary of State for External Affairs of Canada containing a statement that a foreign state is a Contracting State is, in the absence of evidence to the contrary, proof of the truth of the statement without proof of the signature or official character of the person having issued or certified it.

Recognition of award

6.—(1) Subject to subsections (2) and (3), the court, if satisfied that subsections 4 (2) and (4) have been complied with, shall recognize a foreign arbitral award.

Refusal to recognize

(2) The court may refuse to recognize a foreign arbitral award if the person against whom it is invoked satisfies the court that,

(a) a party to the arbitration agreement was under a legal incapacity at the time the agreement was made;

(b) the arbitration agreement is not valid under the law to which the parties subjected it or, where no law is expressly made applicable, under the law of the place where the award was made;

(c) the person was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present a case;

(d) the award deals with a dispute not contemplated by, or not falling within, the terms of the submission to arbitration or it contains decisions on matters beyond the scope of the submission to arbitration;

- b) l'original de la convention d'arbitrage ou une copie sous serment ou notariée de cet original.

(3) Une déclaration sous serment ou notariée d'un arbitre ou d'un agent d'un tribunal ou d'un conseil d'arbitrage qui identifie un document comme étant la sentence arbitrale fait preuve de la sentence originale, en l'absence de preuve contraire.

Preuve de la sentence

(4) Lorsqu'un document visé au paragraphe (2) est rédigé dans une langue autre que l'anglais ou le français, la partie qui demande l'exécution de la sentence arbitrale étrangère présente au tribunal, outre le document, une traduction de celui-ci en anglais ou en français ainsi que la déclaration du traducteur, sous serment ou notariée, attestant que la traduction est fidèle et complète.

Langue de la sentence ou de la convention

5 Dans toute instance, un certificat délivré par le secrétaire d'État aux Affaires extérieures du Canada ou sous son autorité et qui contient une déclaration selon laquelle un État étranger est un État contractant constitue, en l'absence de preuve contraire, une preuve de son contenu sans qu'il soit nécessaire de prouver la signature ou la qualité officielle de la personne qui l'a délivré ou certifié conforme.

Preuve de l'État contractant

6 (1) Sous réserve des paragraphes (2) et (3), le tribunal reconnaît la sentence arbitrale étrangère s'il est convaincu que les paragraphes 4 (2) et (4) ont été respectés.

Reconnais-sance de sentence

(2) Le tribunal peut refuser de reconnaître une sentence arbitrale étrangère si la personne contre laquelle la sentence est invoquée le convainc de la réalité de l'un des faits suivants :

Refus de reconnaiss-ance

- a) qu'une partie à la convention d'arbitrage était frappée d'une incapacité juridique au moment où la convention a été conclue;
- b) que la convention d'arbitrage n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, si aucune loi ne s'y applique expressément, en vertu de la loi du lieu où la sentence a été rendue;
- c) qu'elle n'a pas été dûment informée de la désignation de l'arbitre ou de la procédure d'arbitrage, ou qu'il lui a été impossible, pour une autre raison, de faire valoir sa cause;
- d) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des

- (e) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the place where the arbitration took place; or
- (f) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the place in which, or under the law of which, it was made.

Idem

(3) The court may refuse to recognize a foreign arbitral award if the court finds that the subject-matter of the dispute is not capable of settlement by arbitration under the law of Ontario or recognition or enforcement of the award would be contrary to public policy.

Severability

(4) If the court refuses to recognize a foreign arbitral award under clause (2) (d) and the decisions on matters submitted to arbitration can be separated from those on matters not so submitted, the part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.

Enforcement

7.—(1) A foreign arbitral award recognized by the court is enforceable in the same manner as a judgment or order of the court.

Idem

(2) A foreign arbitral award that is enforceable under this Act shall be binding on the persons as between whom it was made and may be relied on by any of those persons in any legal proceeding.

Stay of enforcement or proceeding

8. When an application for the setting aside or suspension of a foreign arbitral award has been made to a competent authority of the place in which, or under the law of which, it was made, the court may, on motion, stay the enforcement or the proceeding on the enforcement of the award and may, on the motion of the party seeking to enforce it, order the other party to give suitable security in respect of any damage that the party seeking to enforce it may suffer as a result of the stay.

Crown bound

9. A foreign arbitral award recognized under this Act is enforceable against the Crown as if it were a judgment.

décisions sur des questions qui dépassent les termes du compromis ou de la clause compromissoire;

- e) que la constitution du tribunal arbitral ou la procédure d'arbitrage n'était pas conforme à la convention des parties ou, à défaut de convention, qu'elle n'était pas conforme à la loi du lieu où l'arbitrage a eu lieu;
- f) que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par une autorité compétente du lieu où la sentence a été rendue ou en vertu de la loi duquel elle a été rendue.

(3) Le tribunal peut également refuser de reconnaître une sentence arbitrale étrangère s'il constate que l'objet du différend n'est pas susceptible d'être réglé par voie d'arbitrage conformément à la loi de l'Ontario ou que la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public. Idem

(4) Si le tribunal refuse de reconnaître une sentence arbitrale étrangère en vertu de l'alinéa (2) d) et que les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, les premières pourront être reconnues et exécutées. Dissociation

7 (1) La sentence arbitrale étrangère reconnue par le tribunal est exécutoire au même titre et de la même façon qu'un jugement ou qu'une ordonnance rendue par lui. Exécution

(2) La sentence arbitrale étrangère qui est exécutoire en vertu de la présente loi lie les personnes à l'égard desquelles elle a été rendue. Ces personnes peuvent invoquer la sentence dans toute action en justice. Idem

8 Lorsqu'une requête visant l'annulation ou la suspension d'une sentence arbitrale étrangère est présentée à une autorité compétente du lieu où la sentence a été rendue ou en vertu de la loi duquel elle a été rendue, le tribunal peut, sur motion, suspendre l'exécution de la sentence ou l'instance qui s'y rapporte. En outre, le tribunal peut, à la suite d'une motion de la partie qui demande l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables relatives à tout dommage que peut subir, comme résultat de la suspension, la partie qui demande l'exécution. Suspension de l'exécution ou de l'instance

9 Une sentence arbitrale étrangère reconnue en vertu de la présente loi est exécutoire contre la Couronne de la même manière et dans la même mesure que s'il s'agissait d'un jugement. Couronne liée

Rights
saved

10. Nothing in this Act affects any rights that otherwise exist to enforce a foreign arbitral award.

Commence-
ment

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Foreign Arbitral Awards Act, 1986*.

10 La présente loi n'a pas pour effet de porter atteinte aux Réserve droits relatifs à l'exécution d'une sentence arbitrale étrangère qui existent par ailleurs.

11 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

12 Le titre abrégé de la présente loi est *Loi de 1986 sur les sentences arbitrales étrangères*. Titre abrégé

SCHEDULE

New York, June 10, 1958

A. CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

Article I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

Article II

1. Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

Article III

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

ANNEXE

New York, le 10 juin 1958

A. CONVENTION POUR LA RECONNAISSANCE ET L'EXÉCUTION DES SENTENCES ARBITRALES ÉTRANGÈRES

Article premier

1. La présente Convention s'applique à la reconnaissance et à l'exécution des sentences arbitrales rendues sur le territoire d'un État autre que celui où la reconnaissance et l'exécution des sentences sont demandées, et issues de différends entre personnes physiques ou morales. Elle s'applique également aux sentences arbitrales qui ne sont pas considérées comme sentences nationales dans l'État où leur reconnaissance et leur exécution sont demandées.

2. On entend par «sentences arbitrales» non seulement les sentences rendues par des arbitres nommés pour des cas déterminés, mais également celles qui sont rendues par des organes d'arbitrage permanents auxquels les parties se sont soumises.

3. Au moment de signer ou de ratifier la présente Convention, d'y adhérer ou de faire la notification d'extension prévue à l'article X, tout État pourra, sur la base de la réciprocité, déclarer qu'il appliquera la Convention à la reconnaissance et à l'exécution des seules sentences rendues sur le territoire d'un autre État contractant. Il pourra également déclarer qu'il appliquera la Convention uniquement aux différends issus de rapports de droit, contractuels ou non contractuels, qui sont considérés comme commerciaux par sa loi nationale.

Article II

1. Chacun des États contractants reconnaît la convention écrite par laquelle les parties s'obligent à soumettre à un arbitrage tous les différends ou certains des différends qui se sont élevés ou pourraient s'élever entre elles au sujet d'un rapport de droit déterminé, contractuel ou non contractuel, portant sur une question susceptible d'être réglée par voie d'arbitrage.

2. On entend par «convention écrite» une clause compromissoire insérée dans un contrat, ou un compromis, signés par les parties ou contenus dans un échange de lettres ou de télexgrammes.

3. Le tribunal d'un État contractant, saisi d'un litige sur une question au sujet de laquelle les parties ont conclu une convention au sens du présent article, renverra les parties à l'arbitrage, à la demande de l'une d'elles, à moins qu'il ne constate que ladite convention est caduque, inopérante ou non susceptible d'être appliquée.

Article III

Chacun des États contractants reconnaîtra l'autorité d'une sentence arbitrale et accordera l'exécution de cette sentence conformément aux règles de procédure suivies dans le territoire où la sentence est invoquée, aux conditions établies dans les articles suivants. Il ne sera pas imposé, pour la reconnaissance ou l'exécution des sentences arbitrales auxquelles s'applique la présente Convention, de conditions sensiblement plus rigoureuses, ni de frais de justice sensiblement plus élevés, que ceux qui sont imposés pour la reconnaissance ou l'exécution des sentences arbitrales nationales.

Article IV

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:

- a) The duly authenticated original award or a duly certified copy thereof;
- b) The original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

Article V

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that:

- a) The parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or
- b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or
- c) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- d) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- e) The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

- a) The subject matter of the difference is not capable of settlement by arbitration under the law of that country; or
- b) The recognition or enforcement of the award would be contrary to the public policy of that country.

Article IV

1. Pour obtenir la reconnaissance et l'exécution visées à l'article précédent, la partie qui demande la reconnaissance et l'exécution doit fournir, en même temps que la demande :

- a) L'original dûment authentifié de la sentence ou une copie de cet original réunissant les conditions requises pour son authenticité;
- b) L'original de la convention visée à l'article II, ou une copie réunissant les conditions requises pour son authenticité.

2. Si ladite sentence ou ladite convention n'est pas rédigée dans une langue officielle du pays où la sentence est invoquée, la partie qui demande la reconnaissance et l'exécution de la sentence aura à produire une traduction de ces pièces dans cette langue. La traduction devra être certifiée par un traducteur officiel ou un traducteur juré ou par un agent diplomatique ou consulaire.

Article V

1. La reconnaissance et l'exécution de la sentence ne seront refusées, sur requête de la partie contre laquelle elle est invoquée, que si cette partie fournit à l'autorité compétente du pays où la reconnaissance et l'exécution sont demandées la preuve :

- a) Que les parties à la convention visée à l'article II étaient, en vertu de la loi à elles applicable, frappées d'une incapacité, ou que ladite convention n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, à défaut d'une indication à cet égard, en vertu de la loi du pays où la sentence a été rendue; ou
- b) Que la partie contre laquelle la sentence est invoquée n'a pas été dûment informée de la désignation de l'arbitre ou de la procédure d'arbitrage, ou qu'il lui a été impossible, pour une autre raison, de faire valoir ses moyens; ou
- c) Que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire; toutefois, si les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, les premières pourront être reconnues et exécutées; ou
- d) Que la constitution du tribunal arbitral ou la procédure d'arbitrage n'a pas été conforme à la convention des parties, ou, à défaut de convention, qu'elle n'a pas été conforme à la loi du pays où l'arbitrage a eu lieu; ou
- e) Que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par une autorité compétente du pays dans lequel, ou d'après la loi duquel, la sentence a été rendue.

2. La reconnaissance et l'exécution d'une sentence arbitrale pourront aussi être refusées si l'autorité compétente du pays où la reconnaissance et l'exécution sont requises constate :

- a) Que, d'après la loi de ce pays, l'objet du différend n'est pas susceptible d'être réglé par voie d'arbitrage; ou
- b) Que la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public de ce pays.

Article VI

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V 1 (c), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

Article VII

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

2. The Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 shall cease to have effect between Contracting States on their becoming bound and to the extent that they become bound, by this Convention.

Article VIII

1. This Convention shall be open until 31 December 1958 for signature on behalf of any Member of the United Nations and also on behalf of any other State which is or hereafter becomes a member of any specialized agency of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.

2. The Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article IX

1. This Convention shall be open for accession to all States referred to in article VIII.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article X

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to

Article VI

Si l'annulation ou la suspension de la sentence est demandée à l'autorité compétente visée à l'article V, paragraphe 1, c, l'autorité devant qui la sentence est invoquée peut, si elle l'estime approprié, surseoir à statuer sur l'exécution de la sentence; elle peut aussi, à la requête de la partie qui demande l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables.

Article VII

1. Les dispositions de la présente Convention ne portent pas atteinte à la validité des accords multilatéraux ou bilatéraux conclus par les États contractants en matière de reconnaissance et d'exécution de sentences arbitrales et ne privent aucune partie intéressée du droit qu'elle pourrait avoir de se prévaloir d'une sentence arbitrale de la manière et dans la mesure admises par la législation ou les traités du pays où la sentence est invoquée.

2. Le Protocole de Genève de 1923 relatif aux clauses d'arbitrage et la Convention de Genève de 1927 pour l'exécution des sentences arbitrales étrangères cesseront de produire leurs effets entre les États contractants du jour, et dans la mesure, où ceux-ci deviendront liés par la présente Convention.

Article VIII

1. La présente Convention est ouverte jusqu'au 31 décembre 1958 à la signature de tout État Membre des Nations Unies, ainsi que de tout autre État qui est, ou deviendra par la suite, membre d'une ou plusieurs institutions spécialisées des Nations Unies ou partie au Statut de la Cour Internationale de Justice, ou qui aura été invité par l'Assemblée générale des Nations Unies.

2. La présente Convention doit être ratifiée et les instruments de ratification déposés auprès du Secrétaire général de l'Organisation des Nations Unies.

Article IX

1. Tous les États visés à l'article VIII peuvent adhérer à la présente Convention.

2. L'adhésion se fera par le dépôt d'un instrument d'adhésion auprès du Secrétaire général de l'Organisation des Nations Unies.

Article X

1. Tout État pourra, au moment de la signature, de la ratification ou de l'adhésion, déclarer que la présente Convention s'étendra à l'ensemble des territoires qu'il représente sur le plan international, ou à l'un ou plusieurs d'entre eux. Cette déclaration produira ses effets au moment de l'entrée en vigueur de la Convention pour ledit État.

2. Par la suite, toute extension de cette nature se fera par notification adressée au Secrétaire général de l'Organisation des Nations Unies et produira ses effets à partir du quatre-vingt-dixième jour qui suivra la date à laquelle le Secrétaire général de l'Organisation des Nations Unies aura reçu la notification, ou à la date d'entrée en vigueur de la Convention pour ledit État si cette dernière date est postérieure.

3. En ce qui concerne les territoires auxquels la présente Convention ne s'applique pas à la date de la signature, de la ratification ou de l'adhésion, chaque État intéressé examinera la possibilité de prendre les mesures voulues pour étendre la Convention à ces territoires, sous réserve le cas

extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article XI

In the case of a federal or non-unitary State, the following provisions shall apply:

- a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;
- b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;
- c) A federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

Article XII

1. This Convention shall come into force on the ninetieth day following the date of deposit of the third instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the third instrument of ratification or accession, this Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Article XIII

1. Any Contracting State may denounce this Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Any State which has made a declaration or notification under article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.

3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

Article XIV

A Contracting State shall not be entitled to avail itself of the present Convention against other Contracting States except to the extent that it is itself bound to apply the Convention.

échéant, lorsque des motifs constitutionnels l'exigeront, de l'assentiment des gouvernements de ces territoires.

Article XI

Les dispositions ci-après s'appliqueront aux États fédératifs ou non unitaires :

- a) En ce qui concerne les articles de la présente Convention qui relèvent de la compétence législative du pouvoir fédéral, les obligations du gouvernement fédéral seront les mêmes que celles des États contractants qui ne sont pas des États fédératifs;
- b) En ce qui concerne les articles de la présente Convention qui relèvent de la compétence législative de chacun des États ou provinces constitutants, qui ne sont pas, en vertu du système constitutionnel de la fédération, tenus de prendre des mesures législatives, le gouvernement fédéral portera le plus tôt possible, et avec son avis favorable, lesdits articles à la connaissance des autorités compétentes des États ou provinces constitutants;
- c) Un État fédératif Partie à la présente Convention communiquera, à la demande de tout autre État contractant qui lui aura été transmise par l'intermédiaire du Secrétaire général de l'Organisation des Nations Unies, un exposé de la législation et des pratiques en vigueur dans la fédération et ses unités constitutantes, en ce qui concerne telle ou telle disposition de la Convention, indiquant la mesure dans laquelle effet a été donné, par une action législative ou autre, à ladite disposition.

Article XII

1. La présente Convention entrera en vigueur le quatre-vingt-dixième jour qui suivra la date du dépôt du troisième instrument de ratification ou d'adhésion.

2. Pour chacun des États qui ratifieront la Convention ou y adhéreront après le dépôt du troisième instrument de ratification ou d'adhésion, elle entrera en vigueur le quatre-vingt-dixième jour qui suivra la date du dépôt par cet État de son instrument de ratification ou d'adhésion.

Article XIII

1. Tout État contractant pourra dénoncer la présente Convention par notification écrite adressée au Secrétaire général de l'Organisation des Nations Unies. La dénonciation prendra effet un an après la date où le Secrétaire général de l'Organisation des Nations Unies aura reçu la notification.

2. Tout État qui aura fait une déclaration ou une notification conformément à l'article X pourra notifier ultérieurement au Secrétaire général de l'Organisation des Nations Unies que la Convention cessera de s'appliquer au territoire en question un an après la date à laquelle le Secrétaire général aura reçu cette notification.

3. La présente Convention demeurera applicable aux sentences arbitrales au sujet desquelles une procédure de reconnaissance ou d'exécution aura été entamée avant l'entrée en vigueur de la dénonciation.

Article XIV

Un État contractant ne peut se réclamer des dispositions de la présente Convention contre d'autres États contractants que dans la mesure où il est lui-même tenu d'appliquer cette convention.

Article XV

The Secretary-General of the United Nations shall notify the States contemplated in article VIII of the following:

- a) Signatures and ratifications in accordance with article VIII;
- b) Accessions in accordance with article IX;
- c) Declarations and notifications under articles I, X and XI;
- d) The date upon which this Convention enters into force in accordance with article XII;
- e) Denunciations and notifications in accordance with article XIII.

Article XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit a certified copy of this Convention to the States contemplated in article VIII.

Article XV

Le Secrétaire général de l'Organisation des Nations Unies notifiera à tous les États visés à l'article VIII :

- a) Les signatures et ratifications visées à l'article VIII;
- b) Les adhésions visées à l'article IX;
- c) Les déclarations et notifications visées aux articles premier, X et XI;
- d) La date où la présente Convention entrera en vigueur, en application de l'article XII;
- e) Les dénonciations et notifications visées à l'article XIII.

Article XVI

1. La présente Convention, dont les textes anglais, chinois, espagnol, français et russe font également foi, sera déposée dans les archives de l'Organisation des Nations Unies.

2. Le Secrétaire général de l'Organisation des Nations Unies remettra une copie certifiée conforme de la présente Convention aux États visés à l'article VIII.

Bill 99**An Act to require Disclosure
of the Use of Hazardous Substances**

Mr. Martel

*1st Reading* January 14th, 1986*2nd Reading**3rd Reading**Royal Assent*

EXPLANATORY NOTES

The Bill requires disclosure by employers of the production, use, storage, emission or disposal of substances designated by the Minister of Labour as hazardous to human health or to the environment and provides for access to disclosure reports by any person. The Ministry is required to supply, on request, health and safety information with respect to each hazardous substance. The names of persons requesting information are kept confidential.

Employers are required to adequately label hazardous substances kept in the workplace and to institute programs for workers on the proper handling of hazardous substances.

Bill 99**1986**

**An Act to require Disclosure
of the Use of Hazardous Substances**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“employer”, “work place” and “worker” have the meanings attributed to them under the *Occupational Health and Safety Act*; R.S.O. 1980.
c. 321

“hazardous substance” means a substance or combination of substances designated as hazardous under section 3;

“inspector” means an inspector appointed for the purposes of this Act or appointed under the *Occupational Health and Safety Act*;

“Minister” means the Minister of Labour;

“Ministry” means the Ministry of Labour.

2.—(1) An employer who produces, uses in manufacturing, processing or packaging, stores, emits into the air, land or water or disposes of a hazardous substance shall file an annual disclosure report in accordance with subsection 3 (2).

Disclosure required

(2) An employer shall file an interim disclosure report within fifteen days in respect of the production, use, storage, emission or disposal of a hazardous substance that commences within the eleven months following the employer’s annual filing.

Interim disclosure

3.—(1) The Minister shall designate substances or combinations of substances as hazardous to human health or to the environment in accordance with the criteria set out in the regulations.

Designation of hazardous substances

Contents of
disclosure
report

- (2) A disclosure report filed under section 2,
- (a) shall identify the hazardous substances that the employer produces, uses, stores, emits or disposes of;
 - (b) shall state the purpose for producing, using or storing the hazardous substance or the reason for emitting or disposing of it; and
 - (c) shall state, for every hazardous substance identified,
 - (i) the municipal address of every place at which the employer produces, uses, stores, emits or disposes of it, and
 - (ii) the quantities of it involved at each place.

Exemptions
from
disclosure

4. An employer is not required to file a disclosure report with respect to a hazardous substance that is used, stored, emitted or disposed of in quantities of less than 1 kilogram or 1 litre per year or that is a consumer product.

Protection of
trade secrets

5.—(1) An employer shall not refuse to file a disclosure report on the grounds that disclosure will reveal a trade secret or otherwise prejudice the employer's financial or commercial interests.

Referral to
arbitration

(2) An employer who wishes to protect information in respect of a hazardous substance may apply to the Minister to have the matter dealt with by final and binding settlement by arbitration.

Composition
and
appointment
of arbitral
board

(3) An application under subsection (2) shall be referred to an arbitral board composed of one representative each from industry, labour and the community appointed by the Minister of Labour with the approval of the Lieutenant Governor in Council.

Decision
of board

(4) An arbitral board may approve the protection of the name of the hazardous substance that is the subject of the application but not of its nature or the hazards associated with it.

Access to
disclosure
reports

6.—(1) Any person may at all reasonable times have access to a disclosure report filed with the Ministry.

Health and
safety data

(2) On the request of any person, the Ministry shall supply within a reasonable time health and safety data and provide access to information available from the Canadian Centre of

Occupational Health and Safety in respect of any hazardous substance, including,

- (a) the chemical composition and properties of the substance;
- (b) the health hazards associated with it, including acute and chronic effects; and
- (c) the precautionary, protective and remedial measures to be taken in connection with it.

(3) The Ministry shall not disclose the name of any person who has made a request for access to a disclosure report or to obtain health and safety information under this section.

Anonymity
of
applicants

(4) Part VI of the *Occupational Health and Safety Act* prohibiting reprisals by an employer because a worker has sought the enforcement of that Act applies with all necessary modifications with respect to a worker seeking enforcement of this Act.

Reprisals
prohibited
R.S.O. 1980,
c. 321

7.—(1) An employer shall ensure that hazardous substances kept in the work place, whether in containers or in piping systems, are clearly labelled to display, with respect to each hazardous substance,

Labelling of
hazardous
substances

- (a) its chemical composition and properties;
- (b) its generic name; and
- (c) the handling precautions to be taken to ensure its safe use.

(2) An employer shall establish continuing programs to educate workers in the handling, storage, use, disposal and transport of any hazardous substance with which they may come in contact in the work place.

Education
programs

8.—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector shall inspect the premises of an employer required to file a disclosure report under section 2 at least once every three years.

Inspection
of premises

(2) An inspector may, in connection with an inspection under subsection (1),

Idem

- (a) enter in or upon any work place that is not a dwelling at any time without warrant or notice; and

- (b) conduct tests of any biological, chemical or physical agent in the work place and for this purpose take and carry away samples.

Obstruction
of inspector

- (3) No person shall obstruct or interfere with an inspector in an inspection under this section.

Penalty

- 9.** Every employer who contravenes or fails to comply with a provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Regulations

- 10.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) providing for and prescribing fees;
- (c) establishing criteria for the designation of hazardous substances;
- (d) setting out the procedure to be followed in respect of arbitration.

Commencement

- 11.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 12.** The short title of this Act is the *Hazardous Substances Reporting Act, 1986*.

Bill 100

An Act to provide for the Employment of Disabled Persons

Mr. Mackenzie



1st Reading January 14th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide employment opportunities for disabled persons. The Bill requires that employers hire disabled persons to constitute at least 3 per cent of the employer's work force. The Bill permits the Minister to vary this percentage requirement in cases where the Minister considers another quota to be more suitable. In addition, the Minister may exempt an employer or class of employers from the operation of the statute. The Bill establishes a register of employable disabled persons to be maintained by the Ministry for the purpose of facilitating efforts by employers to meet the quota established by this Bill.

Bill 100**1986**

**An Act to provide for the Employment of
Disabled Persons**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“disabled person” means any person suffering from a serious and prolonged physical disability;

“Minister” means the Minister of Labour;

“Ministry” means the Ministry of Labour;

“register” means the register of disabled persons established under section 4.

2.—(1) Every employer shall ensure that at any point in time the number of disabled persons who are employees of the employer is at least 3 per cent of the total number of employees of the employer.

Employment
of disabled
persons

(2) Notwithstanding subsection (1), the Minister may by order establish a quota for an employer or class of employers that is greater or less than the quota established under subsection (1) where the Minister is of the opinion that the quota established under subsection (1) is not suitable to that employer or class of employers.

Minister
may set
quota

3.—(1) No employer shall hire any person other than a disabled person if the number of disabled persons employed by the employer is less than the employer’s quota established under section 2.

Prohibition

(2) Subsection (1) does not apply to an employer who hires a person,

Exception

(a) as a result of an agreement to reinstate the person entered into before the day on which this Act comes into force;

(b) in accordance with an order or permit issued by the Minister under section 5.

Register

4.—(1) The Ministry shall establish and maintain a register of disabled persons for the purpose of facilitating the hiring by employers of disabled persons and the register shall record the name, address, qualifications, skills and the nature of the disability of each person registered therein.

Disabled person entitled to be registered

(2) Upon application, a person is entitled to be registered by the Ministry as a disabled person for the purposes of this Act if,

(a) the person suffers from a physical disability that harms the person's prospects in obtaining employment; and

(b) the person is capable of performing work in one or more work situations without causing danger to other employees.

Exemption order

5. Upon application, the Minister may by order,

(a) exempt an employer or class of employers from the operation of this Act;

(b) permit an employer to hire one or more persons who are not disabled persons for purposes set forth in the order.

Offence

6.—(1) Every employer who contravenes this Act is guilty of an offence and on summary conviction is liable,

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation, to a fine of not more than \$10,000.

Opportunity to comply

(2) No prosecution against an employer shall be instituted under this Act unless the employer is notified of the intent to bring a prosecution and afforded a reasonable opportunity to show or achieve compliance with this Act.

Regulations

7. The Lieutenant Governor in Council may make regulations.

- (a) prescribing additional types of information to be recorded in respect of each disabled person registered in the register;
- (b) governing the types of information to be supplied to the Ministry by each disabled person registered in the register;
- (c) governing records to be kept and reports to be provided by each employer concerning the disabled persons employed by the employer.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

9. The short title of this Act is the *Disabled Persons Employment Act, 1986*. Short title

1ST SESSION, 33RD LEGISLATURE, ONTARIO

34 ELIZABETH II, 1986

Bill 101

An Act to amend the Occupational Health and Safety Act

The Hon. W. Wrye
Minister of Labour



1st Reading January 31st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to make it mandatory for employers to prepare inventories of hazardous materials and to make available to their workers information respecting hazardous materials and hazardous physical agents. Under the Bill, members of the public would also be entitled to inspect copies of hazardous materials inventories filed with medical officers of health.

Bill 101**1986****An Act to amend the
Occupational Health and Safety Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, is amended by renumbering paragraph 1 as paragraph 1a and by adding thereto the following paragraphs:

1. “combination”, when used in relation to biological, chemical and physical agents, includes a mixture thereof;

10a. “hazardous material” means,

i. a biological or chemical agent that is a hazard to the health or safety of a worker who is or may be exposed thereto,

ii. a combination of biological or chemical or biological and chemical agents of which an ingredient is a hazard to the health or safety of a worker who is or may be exposed thereto,

iii. a biological or chemical agent prescribed by the regulations as a hazardous material;

10b. “hazardous physical agent” means,

i. a physical agent caused, produced or emitted by a thing when in use or operation that is a hazard to the health or safety of a worker who is or may be exposed to the agent,

- ii. a physical agent prescribed by the regulations as a hazardous physical agent.

(2) The said section 1 is further amended by adding thereto the following subsection:

Exception re:
hazardous
materials

- (2) Unless the regulations provide otherwise, a combination of biological and chemical agents or of either of them shall be deemed not to be a hazardous material if the ingredient that is a hazard to the health or safety of a worker is less than 1 per cent by weight of the combination.

2. The said Act is amended by adding thereto the following sections:

Hazardous
materials
inventory

- 22a.**—(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous materials that are present, used, handled or stored in the work place.

Idem

- (2) The inventory required by subsection (1) shall,

- (a) identify the ingredients of a hazardous material by the genus and species if the ingredients are biological agents or by chemical and generic names if the ingredients are chemical agents;
- (b) indicate all areas in or at the work place where the material is or may be present, used, handled or stored; and
- (c) state its date of completion and the name or names of the person or persons who prepared it.

Idem

- (3) The inventory required by subsection (1) shall be prepared in consultation with the joint health and safety committee, if any, and where no such committee exists, in consultation with a worker selected by the workers to represent them.

Exception

- (4) An employer is not in contravention of clause (2) (a) if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients of a hazardous material.

Notification
of Ministry

- (5) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to identify or obtain the identity of the ingredients of a hazardous material.

(6) An employer shall prepare a notice of change with respect to an inventory required by subsection (1) within fifteen days of,

Changes in
inventory

- (a) a hazardous material not in the inventory being brought into or being found to be in the work place; or
- (b) a hazardous material listed in the inventory ceasing to be present in the work place if it is not likely to be present in the work place in the foreseeable future.

(7) Where an inventory required by subsection (1) is amended during a year, the employer, not later than the 1st day of February in the following year, shall prepare a revised version of the inventory incorporating all changes made during the preceding year.

(8) A copy of the most recent version of the inventory required by subsection (1) and every notice of change in relation thereto, forthwith after preparation, shall be,

Idem
Inventory to
be made
available

- (a) posted by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the joint health and safety committee, if any, or to a worker selected by the workers to represent them;
- (c) filed by the employer in the office of the Ministry nearest the work place and the Ministry, at the request of the worker shall make the filings of the worker's employer available for inspection by the worker; and
- (d) furnished by the employer to the fire department of the municipality in which the work place is located and to the medical officer of health of the health unit in which the work place is located.

(9) Upon the request of any person, the most recent version of an inventory and every notice of change in relation thereto furnished to a medical officer of health under subsection (8) shall be made available by the medical officer of health for inspection by the person.

Public
inspection
of inventory

(10) The duty to maintain an inventory of hazardous materials as set out in subsection (1) does not apply to any

Transition

employer until the day ninety days after this section comes into force.

Hazardous materials,
labels and
data sheets

22b.—(1) A person who brings into Ontario or who, in Ontario, distributes or supplies, directly or indirectly, or manufactures or produces a hazardous material for use in a work place shall ensure that,

- (a) every container of the material bears or has securely affixed to it a label containing such information and in such form as may be prescribed; and
- (b) an unexpired material safety data sheet for the material containing such information and in such form as may be prescribed is readily available.

Prohibition

(2) No person shall remove, alter or deface a label described in clause (1) (a) that is on a container.

Material safety data sheet where substantially same facts

(3) Where there are a number of hazardous materials each consisting of a mixture of the same or substantially the same biological or chemical agents and the specific composition of the materials varies from one mixture to another, one material safety data sheet may apply to the materials if the hazard is the same or substantially the same.

Expiry

(4) A material safety data sheet or re-issued material safety data sheet shall be deemed to expire three years after the date the information contained in it was compiled but may be re-issued.

Definition

(5) For the purpose of this Act, “material safety data sheet” means a material safety data sheet to which this section applies and includes a re-issued safety data sheet.

Duty of employer
re: labels
and data sheets

22c.—(1) An employer shall ensure that,

- (a) a container containing hazardous material received at the work place bears a label as prescribed by clause 22b (1) (a); and
- (b) that an unexpired material safety data sheet for the material is obtained by the employer.

Transfer of materials

(2) When hazardous material is transferred in a work place of an employer from a container that is labelled as required by clause 22b (1) (a) into another container, the employer shall ensure that the container into which the hazardous material is transferred bears or has securely affixed to it a label contain-

ing the same information as is set out in the label on the container in which the hazardous material was received.

(3) Subsection (2) does not apply so as to require the labelling of a container to which hazardous material is transferred if,

- (a) the transfer is made by a worker who uses the hazardous material forthwith following the transfer; or
- (b) the transfer is made into a container that, without further transfers, is intended to contain the material for the purposes of disposition in the retail market.

Non-application

(4) An employer shall ensure that the unexpired material safety data sheet is available in English for examination by the workers who use or handle the material and by the joint health and safety committee, if any, and, if the majority language of the work place is not English, a copy of the material safety data sheet in the majority language shall also be kept available for such examination.

Examination by workers

(5) An employer is not in contravention of clause (1) (b) if the employer has made every effort reasonable in the circumstances to obtain an unexpired material safety data sheet for the material.

Exception

(6) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to identify or obtain the identity of the ingredients of a hazardous material.

Notification of Ministry

22d.—(1) An express claim may be made in a material safety data sheet that information required by the regulations to be set out in the data sheet is being withheld because the information is a trade secret.

Trade secrets

(2) Where a claim as described in subsection (1) is made in a material safety data sheet, the person who has a duty under clause 22b (1) (b) and the employer, if the hazardous material is in the employer's possession, shall notify a Director of the claim and the Director shall investigate and determine whether information being withheld is a trade secret.

Investigation

(3) A Director may, in any case to which subsection (2) does not apply, initiate an investigation and determine whether information is being withheld.

Idem

Powers of
Director

(4) For the purposes of an investigation under this section, the Director may exercise the powers conferred upon an inspector by subsection 28 (1).

Hearing by
District
Court

(5) Within fifteen days of receiving notice of a Director's determination under subsection (2) or (3), any person affected by the determination may apply to the District Court for a determination as to whether information withheld is a trade secret.

Power of
Director

(6) Where a Director determines that withheld information is not a trade secret and no application is made under subsection (5) within the fifteen day period referred to in that subsection, the Director shall direct or cause the material safety data sheet to be amended or not, as the case may be, in accordance with the determination.

Power of
District
Court

(7) Where the District Court determines that withheld information is not a trade secret, it may order such amendments as it considers necessary to the material safety data sheet.

Extension
of time

(8) The District Court may extend the time for making an application for a hearing under subsection (5) either before or after the expiration of the fifteen day period mentioned in that subsection if the court is satisfied that there are *prima facie* grounds for relief and that there are reasonable grounds for the extension.

Inventories

(9) This section applies with all necessary modifications where an employer has advised a Director that the employer, in preparing an inventory under section 22a, is unable to identify or obtain the identity of the ingredients of any hazardous material and the Director has reason to believe that the reason therefore is that the identity is being withheld as a trade secret.

Hazardous
physical
agents

22e.—(1) A person who brings into Ontario or who, in Ontario, distributes or supplies, directly or indirectly, or manufactures, produces or designs a thing for use in a work place that causes, emits or produces a hazardous physical agent when the thing is in use or operation shall ensure that information is readily available respecting the hazardous physical agent and the proper use or operation of the thing.

Duty of
employer

(2) Where an employer has a thing described in subsection (1) in the work place, the employer shall ensure that the information referred to in that subsection has been obtained and is kept available in the work place for workers who use or

operate the thing or who are likely to be exposed to the hazardous physical agent.

(3) An employer to whom subsection (2) applies shall post prominent notices identifying and warning of the hazardous physical agent in the part of the work place in which the thing is used or operated or is to be used or operated. Idem

(4) An employer shall ensure that the information required under subsection (2) is available in English and, if the majority language of the work place is not English, the majority language of the work place and that notices required by subsection (3) are posted in those languages. Majority language

22f.—(1) In addition to providing instruction and training to a worker as prescribed by clause 14 (2) (a), an employer shall ensure that a worker exposed or likely to be exposed to a hazardous material or to a hazardous physical agent receives, and that the worker participates in, instruction and training in, Instruction and training

- (a) the appraisal of information in the labels on containers containing hazardous materials, and material safety data sheets, and of information made available in relation to hazardous physical agents;
- (b) the purpose and significance of precautions, including emergency procedures, set out in any label or material safety data sheet or in any information made available in relation to hazardous physical agents;
- (c) the necessity of special precautionary measures and procedures, if any;
- (d) the health or safety hazards associated with exposure to the hazardous material or hazardous physical agent; and
- (e) the use, purpose and limitations of protective devices and equipment to be used or worn.

(2) The instruction and training to be given under subsection (1) shall be developed by the employer in consultation with the joint health and safety committee, if any. Idem

(3) An employer shall ensure that a worker is familiarized with the matters mentioned in subsection (1) and is rehearsed in their application through performance demonstration. Idem

Idem

(4) An employer shall review in consultation with the joint health and safety committee, if any, the training and instruction provided to a worker and the worker's familiarity therewith annually or at such other intervals as may be advised by the joint health and safety committee, if any.

3. Clause 28 (1) (l) of the said Act, exclusive of the sub-clauses, is repealed and the following substituted therefor:

- (l) require in writing, within such time as is specified, a person who is an employer, manufacturer, producer, importer, distributor or supplier to produce records or information, or to provide, at the expense of the person, a report or evaluation made or to be made by a person or organization having special, expert or professional knowledge or qualifications as are specified by the inspector of any process or biological, chemical or physical agents or combination of such agents present, used or intended for use in a work place and the manner of use, including,

Additional
orders

4. Section 29 of the said Act is amended by adding thereto the following subsection:

- (4a) In addition to the orders that may be made under subsection (4), where an inspector makes an order under subsection (1) for a contravention of section 22b, 22c or 22e or a Director has been advised of an employer's inability to obtain an unexpired material safety data sheet, the inspector may order that the hazardous material shall not be used or that the thing that causes, emits or produces the hazardous physical agent not be used or operated until the order is withdrawn or cancelled.

5. Subsection 41 (2) of the said Act is amended by striking out "and" at the end of paragraph 22 and by adding thereto the following paragraph:

24. prescribing any biological or chemical agent as a hazardous material and any physical agent as a hazardous physical agent and naming any biological or chemical agent that when used as an ingredient is a hazardous material even though the ingredient is less than 1 per cent by weight of a combination.

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

7. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1986*. Short title

Bill 102

An Act to amend the Denture Therapists Act

Mr. Swart



1st Reading January 31st, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would amend the Act to refer to denturists rather than denture therapists and would permit denturists to make, repair and market partial dentures without requiring supervision by dentists.

Bill 102**1986****An Act to amend the Denture Therapists Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Denture Therapists Act*, being chapter 115 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Denturists Act

2. Wherever in the said Act reference is made to a denture therapist, the reference shall be deemed to be to a denturist.

Amendments
to references

3.—(1) Clauses 1 (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) “Appeal Board” means the Denturists Appeal Board continued under section 13;

(b) “Board” means the Governing Board of Denturists under section 2.

(2) Clause 1 (h) of the said Act is amended by striking out “or the practice of supervised denture therapy, as the case may be” in the sixth and seventh lines.

(3) Clause 1 (i) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the second and third lines.

(4) Clause 1 (j) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the third line.

(5) Clause 1 (l) of the said Act is repealed and the following substituted therefor:

(l) “practice of denture therapy” means,

- (i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,
- (ii) the fitting of any removable prosthetic denture, and
- (iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing of removable prosthetic dentures in respect of which a service is performed under subclause (i) or (ii).

(6) Clause 1 (m) of the said Act is repealed.

4.—(1) Subsection 2 (1) of the said Act is repealed and the following substituted therefor:

Governing
Board of
Denturists

(1) The Governing Board of Denture Therapists is continued and shall be known as the Governing Board of Denturists and composed of members appointed by the Lieutenant Governor in Council.

(2) Clause 2 (9) (a) of the said Act is amended by striking out “and the practice of supervised denture therapy” in the first and second lines.

(3) Clause 2 (9) (c) of the said Act is amended by striking out “and the practice of supervised denture therapy” in the third and fourth lines.

5.—(1) Subsection 3 (1) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the fourth and fifth lines.

(2) Subsection 3 (3) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the second and third lines and in the fifth line.

6.—(1) Subsection 4 (5) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the third and fourth lines.

(2) Subsections 4 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

(6) No licensed denturist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy performed in the manner required by this Act.

Acts outside
scope of
practice

7. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

(1) The Denture Therapists Appeal Board is continued and shall be known as the Denturists Appeal Board.

Denturists
Appeal
Board

8. This Act comes into force on the day it receives Royal Assent.

Commencement

9. The short title of this Act is the *Denture Therapists Amendment Act, 1986.*

Short title

Bill 103

An Act to amend the Teachers' Superannuation Act, 1983

The Hon. R. Nixon
Treasurer of Ontario



1st Reading February 6th, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of "debenture rate", in relation to a fiscal year, is amended to mean either the weighted average of the rate of interest of debentures issued in the fiscal year or the weighted average of the rate of interest of debentures issued under a predecessor of the Act.

Subsection 2. The definition of "employed in education" is amended to include a person deemed to continue to be employed in education by section 11. Section 11 relates to persons employed on the staff of a college of applied arts and technology who were deemed to be "employed in education" under a predecessor of the Act. The amendment clarifies that these are persons for whom the employer, and not the Treasurer, makes matching contributions to the Fund.

Subsections 3, 4 and 5. The amendments delete from the definition of "employed in education" persons employed "in the Ministry of Education" or "by the Minister". The effective date of the amendments is to be the 1st day of January, 1986. The result of the amendments is that such persons who were contributors before that date will continue to be contributors, but such persons employed for the first time on or after that date will not be entitled to be contributors under the Act.

Former section 27 of the *Public Service Superannuation Act* permitted contributors to the Teachers' Superannuation Fund who became civil servants in certain capacities to choose to continue to contribute to that Fund or to become contributors to the Public Service Superannuation Fund. The amendments are complementary to the repeal of section 27, which came into force as of the 1st day of January, 1986.

SECTION 2. Subsections 4 (5) to (8) of the Act relate to contributions by or for persons with long-term disabilities. The subsections permit the Commission to accept additional contributions, but the amounts of the contributions vary depending on the terms of the agreements under which the persons are provided with long term disability income.

The amendments provide a single formula that will apply to all such additional contributions, with the maximum additional contribution in any year limited to 6.9 per cent of the amount of the annual increase that would apply to a pension under the *Superannuation Adjustment Benefits Act* in the year.

SECTION 3. Section 5 of the Act relates to matching contributions by the Treasurer. The amendment will remove the requirement that the Treasurer match contributions by or for persons impaired by long-term disabilities if the persons are in categories for which the Treasurer does not otherwise match contributions.

SECTION 4. The amendment provides an opportunity to teachers in designated private schools on the 1st day of September, 1986 to withdraw any election they made to be excluded from the benefits and obligations of the Act when the private school received its designation. The election must be withdrawn before the 1st day of January, 1987.

SECTION 5. Section 14 of the Act relates to qualification for and calculation of the amount of an annual superannuation allowance. The section relates to persons who have credit in the Fund for less than ten years but who have been in the service of their last employer for at least ten years. Paragraph 3 of subsection 14 (2) sets out the requirement of ten years of service with the last employer. Subsection 44 (4) of the Act permits a refund of contributions in respect of service before the 1st day of January, 1965.

SECTION 6. Section 16 of the Act is re-enacted to reduce from two years to one year the time that a teacher who is receiving a superannuation allowance must continue to be re-employed in education before becoming entitled to receive a superannuation allowance adjusted to reflect the contributions made during the period of re-employment.

SECTION 7. New section 18a of the Act provides that the actuarial reductions in section 13 (which relates to superannuation allowances) and section 18 (which relates to dis-

ability allowances) of the Act will not apply to a person who is qualified for an allowance under either of those sections, if the person ceases to be employed in education between the 31st day of May, 1986 and the 1st day of September, 1989, is fifty-five years of age and has credit in the Fund for at least ten years of full-time employment in education.

SECTION 8. Section 23 of the Act prevents a person who is receiving a disability allowance under section 18 (which relates to persons incapable of further employment in education) from continuing to receive the allowance while the person is again employed in education or employed as a teacher in a school or institution. The section is re-enacted to permit such a person to continue to receive a disability allowance while employed in education otherwise than as a teacher, subject to a possible reduction in the amount of the disability allowance.

SECTION 9. Section 26 of the Act relates to survivor allowances. The amendment provides that the spouse of a person who dies while in receipt of a survivor allowance is not also entitled to a survivor allowance.

SECTIONS 10 and 11. Sections 28 and 29 of the Act relate to survivor allowances to the child or children of a person who dies while in receipt of an allowance or with a vested interest in an allowance under the Act. The amendments clarify that as each child reaches the age at which he or she ceases to be entitled to a share of the survivor allowance, the share accrues to the remaining child or children who continue to be entitled to share in the allowance.

SECTION 12. New section 37a is added to the Act to enable the Commission to act on written directions from persons receiving allowances to deduct and remit premiums under the Ontario Health Insurance Plan or other group health-related insurance plans.

SECTION 13. Section 46 of the Act is amended to provide for the return of contributions to a person in receipt of a superannuation allowance if the contributions were made in respect of a return to employment in education for fewer than twenty days in a school year.

SECTION 14. Subsection 64 (3) of the Act requires actuarial valuations of the Fund. The new subsections require the delivery of the valuations to the Minister. The Minister is required to transmit copies of the valuations to the Commission and to the Pension Commission of Ontario.

SECTION 15. Section 75 of the Act provides for the making of regulations.

Subsection 1. Clause 75 (1) (e) provides for regulations authorizing the Commission to require information from contributors, persons in receipt of allowances and boards. The clause is re-enacted to provide for regulations authorizing the Commission to require information from applicants.

Subsection 2. New clause 75 (1) (t) provides for regulations respecting granting credit in the Fund for past teaching service in prescribed schools or institutions in Ontario. New clause 75 (1) (u) provides for regulations respecting minimum allowances, the classes of persons to whom minimum allowances may be paid and for payment of all or part of such minimum allowances out of the Consolidated Revenue Fund.

Bill 103**1986**

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (g) of the *Teachers' Superannuation Act, 1983*, being chapter 84, is amended by adding at the end thereof “or under a predecessor of this Act”.

(2) Subclause 1 (1) (j) (v) of the said Act is amended by adding at the end thereof “or as a person deemed to continue to be employed in education by section 11”.

(3) Subclause 1 (1) (j) (vii) of the said Act is amended by striking out “or in the Ministry of Education” in the first and second lines.

(4) Subclause 1 (1) (j) (viii) of the said Act is amended by striking out “the Minister of Education or” in the first line.

(5) A person who was employed in education, within the meaning of the said Act, immediately before the 1st day of January, 1986, does not cease to be employed in education for the purposes of the said Act by reason only of the amendments set out in subsections (3) and (4).

Transitional

2. Subsections 4 (5), (6), (7) and (8) of the said Act are repealed and the following substituted therefor:

(5) Contributions to the Fund under subsection (3) may be increased in each year by an amount that does not exceed 6.9 per cent of the annual rate of salary that would be payable to the person in the year if the annual rate of salary paid to the person immediately before the cessation by reason of disability of the person's employment in education were increased in each year after the person so ceased to be employed in the same manner as a pension would be increased in each year under the *Superannuation Adjustment Benefits Act*.

Increased contributions whether or not provided for in agreement

R.S.O. 1980.
c. 490

Application
of
contributions

(6) Contributions under subsection (5) may be made by or for the person in any year after the first year of contribution, but apply only in respect of the year in which the contributions are made, and the person in respect of whom the contributions are accepted shall be given credit in the Fund for the annual rate of salary on which the contributions under this section accepted by the Commission are based.

3. Subsection 5 (4) of the said Act is repealed and the following substituted therefor:

Long term
disability

(4) Subsection (1) applies in respect of contributions made to the Fund in accordance with section 4 (long term disability agreements), but does not apply in respect of contributions under that section in respect of a person referred to in subsection (2) or (3).

4. Section 9 of the said Act is amended by adding thereto the following subsection:

Termination
of election

(9a) A person employed in education as a teacher in a private school designated under this or a predecessor Act who elected to be excluded from the benefits and obligations of this or a predecessor Act may, by written notice in form satisfactory to the Commission, terminate the effect of the election, provided that,

- (a) the person is entitled to be a contributor to the Fund on and after the 1st day of September, 1986;
- (b) the person is employed in education as a teacher in a designated private school on the 1st day of September, 1986;
- (c) the person continues to be employed in education for at least twenty working days in the school year commencing on the 1st day of September, 1986; and
- (d) the written notice of termination provided for in this section is delivered as required by this section before the 1st day of January, 1987 to the governing body of the designated private school where the person is employed and to the Commission,

and upon delivery of the notice of termination in accordance with this subsection, the person is, from and after the 1st day of September, 1986, entitled to the benefits and subject to the obligations of this Act.

5. Subsection 14 (2) of the said Act is amended by adding thereto the following paragraph:

4. Paragraph 3 does not apply if the person's credit in the Fund has been reduced to less than ten years by a refund made to the person under subsection 44 (4) or a predecessor thereof.

6. Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Where a person ceases to receive a superannuation allowance under this or a predecessor Act because of re-employment in education, and the re-employment is for less than one year, the person is entitled, upon the cessation of the re-employment and subject to subsection (3), to the resumption of the superannuation allowance to which the person was entitled immediately before the re-employment.

Resumption
of
super-
annuation
allowance

(2) Where a person ceases to receive a superannuation allowance under this or a predecessor Act because of re-employment in education, and the re-employment is for a period or periods equivalent to full-time employment in education for one year or more, the person is entitled, upon the cessation of the re-employment and subject to subsection (3), to apply for a superannuation allowance under this Act adjusted to reflect the contributions to the Fund by or for the person during the period of re-employment.

Application
for adjusted
allowance

(3) A person mentioned in subsection (1) or (2) who has received, during the re-employment in education, a superannuation allowance under this or a predecessor Act is not entitled to the resumption of superannuation allowance under subsection (1) or to apply for a superannuation allowance under subsection (2) until the person pays to the Fund an amount equal to the total of the superannuation allowance received by the person during the re-employment together with interest on each such superannuation allowance payment computed at the debenture rate for the fiscal year in which the person's re-employment in education commenced and for the period from the date when each such superannuation allowance payment was paid out of the Fund to the date when it is paid to the Fund.

Allowance to
be repaid

(4) This section applies despite subsection 76 (1).

Application
of section

7. The said Act is amended by adding thereto the following section:

Reduction
not to apply

18a. The reduction mentioned in paragraph 4 of subsection 13 (3) or in paragraph 4 of subsection 18 (2) does not apply in respect of a person who,

- (a) is entitled to an allowance under section 13 or 18;
- (b) has attained the age of fifty-five years;
- (c) has credit in the Fund for a period or periods equal to at least ten years of full-time employment in education; and
- (d) ceases to be employed in education after the 31st day of May, 1986 and before the 1st day of September, 1989.

8. Section 23 of the said Act is repealed and the following substituted therefor:

Effect of re-
employment
as a teacher

23.—(1) A person who is receiving a disability allowance under section 18 or a predecessor thereof, and who becomes employed as a teacher in a school or institution ceases to be entitled to the disability allowance until the person ceases to be so employed.

Re-
employment
in education
other than
as a teacher

(2) A person who is receiving a disability allowance under section 18 or a predecessor thereof, and who is employed in education otherwise than as a teacher, may continue to receive, subject to subsection (3), any disability allowance to which the person continues to be entitled.

Idem

(3) The disability allowance payable to a person mentioned in subsection (2) shall be reduced by the amount by which,

- (a) the aggregate of the disability allowance paid to the person in the year, plus the payments made to the person in the year under the *Superannuation Adjustment Benefits Act* in relation to that allowance, plus the salary paid to the person in the year in respect of employment in education,

exceeds an amount equal to,

- (b) the annual rate of salary paid to the person immediately before the cessation, by reason of the disability, of the person's employment in education and increased in each year after the person so ceased to be employed, to and including the year referred to in clause (a), in the same manner as a pension

R.S.O. 1980.
c. 490

would be increased under the *Superannuation Adjustment Benefits Act.* R.S.O. 1980, c. 490

- (4) This section applies despite subsection 76 (1).

Application
of section

9. Subsection 26 (1) of the said Act is amended by inserting after "Act" in the second line "other than a survivor allowance".

10. Subsection 28 (1) of the said Act is repealed and the following substituted therefor:

- (1) The child or children of a person who,

- (a) dies while receiving or with a vested interest in an allowance under this Act; and
- (b) is survived by a spouse entitled to an annual survivor allowance in respect of the person,

Survivor
allowance
to child on
death of
surviving
spouse

are entitled upon the death of the spouse to an annual survivor allowance payable to or among such of the child or children as are, at the death of the spouse, under the age of eighteen years until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

11. Subsection 29 (1) of the said Act is repealed and the following substituted therefor:

- (1) The child or children of a person who,

- (a) dies while receiving or with a vested interest in an allowance under this Act; and
- (b) is not survived by a spouse entitled to an annual survivor allowance under this Act in respect of the person,

Survivor
allowance
to child
where no
surviving
spouse

are entitled upon the death of the person to an annual survivor allowance payable to or among such of the child or children as are, at the death of the person, under the age of eighteen years until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

12. The said Act is further amended by adding thereto the following section:

Deduction
and
remittance
of health
insurance
premiums

37a.—(1) The Commission may accept and act upon a written direction from a person receiving an allowance under this or a predecessor Act that authorizes the Commission, on behalf of the person, to deduct and remit from the allowance,

- (a) premiums payable under the Ontario Health Insurance Plan by the person; or
- (b) premiums for medical, dental or health related insurance payable by the person under a contract of group insurance approved by the Commission for the purpose of this section and effected between an insurer within the meaning of the *Insurance Act* and the Superannuated Teachers of Ontario or any other organization prescribed by the regulations for the purpose of this section.

R.S.O. 1980.
c. 218

Form of
direction

(2) The Commission is not required to accept or to act upon a direction that is not in a form approved by the Commission, and the Commission may impose and require compliance with such conditions as the Commission considers appropriate before accepting or acting upon a direction.

Application
of s. 43 (1)

(3) Subsection 43 (1) (which prevents assignment of an allowance) does not apply to prevent deductions and remittances under subsections (1) and (2).

13. Section 46 of the said Act is amended by adding thereto the following subsection:

Employment
for fewer
than
twenty days

(3) Notwithstanding subsection (1), a person in receipt of a superannuation allowance under this or a predecessor Act who is employed in education for fewer than twenty days in a school year is entitled upon application to the Commission, after the end of the school year, to a refund of contributions made to the Fund by or for the person during the school year.

14. Section 64 of the said Act is amended by adding thereto the following subsections:

Delivery of
valuations
to Minister

(4) The actuary shall deliver to the Minister every valuation made under subsection (3) forthwith after making the valuation.

Transmittal
of copy to
Commission

(5) The Minister shall transmit to the Commission a copy of each valuation delivered by the actuary under subsection (4).

Transmittal
of copies
under
R.S.O. 1980.
c. 373

(6) The Minister shall transmit to the Pension Commission of Ontario the copies of valuations delivered by the actuary

under subsection (4) that are required by or under the *Pension Benefits Act*.

15.—(1) Clause 75 (1) (e) of the said Act is repealed and the following substituted therefor:

- (e) authorizing the Commission to require boards, contributors to the Fund, recipients of allowances under this Act or applicants for allowances under this Act to furnish information to or for the use of the Commission, and prescribing the form thereof and the information to be furnished.

(2) Subsection 75 (1) of the said Act is amended by adding thereto the following clauses:

- (t) providing for and regulating the granting of credit in the Fund to persons employed in education in respect of past teaching service in schools or institutions in Ontario prescribed for the purpose of this clause, prescribing conditions in respect of the giving of such credit, prescribing the amount or the method of calculating the amount of the credit, and prescribing the method of calculating the payment that must be made and the terms of payment to the Fund in order to obtain the credit;
- (u) prescribing minimum allowances under this or a predecessor Act and providing for the payment thereof or for payments to increase an allowance under this or a predecessor Act that is below the prescribed minimum allowance, prescribing the classes of persons to whom any such minimum allowance shall be paid, and providing for the payment out of the Consolidated Revenue Fund of all or any part of any such minimum allowance or of any amount to be paid to increase allowances under this or a predecessor Act to the amount of a prescribed minimum allowance.

16.—(1) This Act, except sections 1, 2, 3, 4, 5, 10, 11 and 13, comes into force on the day it receives Royal Assent. Commencement

(2) Subsections 1 (1) and (2) and sections 5, 10 and 11 shall be deemed to have come into force on the 1st day of September, 1984. ^{Idem}

(3) Subsections 1 (3), (4) and (5) and section 2 shall be deemed to have come into force on the 1st day of January, 1986. ^{Idem}

Idem
1983, c. 84 (4) Sections 3, 4 and 13 come into force on the 1st day of September, 1986 and apply in respect of school years, as defined in the *Teachers' Superannuation Act, 1983*, commencing on or after that date.

Short title **17.** The short title of this Act is the *Teachers' Superannuation Amendment Act, 1986*.

Bill 103

(*Chapter 13
Statutes of Ontario, 1986*)

An Act to amend the Teachers' Superannuation Act, 1983

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | February 6th, 1986 |
| <i>2nd Reading</i> | February 11th, 1986 |
| <i>3rd Reading</i> | February 12th, 1986 |
| <i>Royal Assent</i> | February 12th, 1986 |

Bill 103**1986**

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (g) of the *Teachers' Superannuation Act, 1983*, being chapter 84, is amended by adding at the end thereof “or under a predecessor of this Act”.

(2) Subclause 1 (1) (j) (v) of the said Act is amended by adding at the end thereof “or as a person deemed to continue to be employed in education by section 11”.

(3) Subclause 1 (1) (j) (vii) of the said Act is amended by striking out “or in the Ministry of Education” in the first and second lines.

(4) Subclause 1 (1) (j) (viii) of the said Act is amended by striking out “the Minister of Education or” in the first line.

(5) A person who was employed in education, within the meaning of the said Act, immediately before the 1st day of January, 1986, does not cease to be employed in education for the purposes of the said Act by reason only of the amendments set out in subsections (3) and (4).

2. Subsections 4 (5), (6), (7) and (8) of the said Act are repealed and the following substituted therefor:

(5) Contributions to the Fund under subsection (3) may be increased in each year by an amount that does not exceed 6.9 per cent of the annual rate of salary that would be payable to the person in the year if the annual rate of salary paid to the person immediately before the cessation by reason of disability of the person's employment in education were increased in each year after the person so ceased to be employed in the same manner as a pension would be increased in each year under the *Superannuation Adjustment Benefits Act*.

Transitional

Increased contributions whether or not provided for in agreement

R.S.O. 1980,
c. 490

Application
of
contributions

(6) Contributions under subsection (5) may be made by or for the person in any year after the first year of contribution, but apply only in respect of the year in which the contributions are made, and the person in respect of whom the contributions are accepted shall be given credit in the Fund for the annual rate of salary on which the contributions under this section accepted by the Commission are based.

3. Subsection 5 (4) of the said Act is repealed and the following substituted therefor:

Long term
disability

(4) Subsection (1) applies in respect of contributions made to the Fund in accordance with section 4 (long term disability agreements), but does not apply in respect of contributions under that section in respect of a person referred to in subsection (2) or (3).

4. Section 9 of the said Act is amended by adding thereto the following subsection:

Termination
of election

(9a) A person employed in education as a teacher in a private school designated under this or a predecessor Act who elected to be excluded from the benefits and obligations of this or a predecessor Act may, by written notice in form satisfactory to the Commission, terminate the effect of the election, provided that,

- (a) the person is entitled to be a contributor to the Fund on and after the 1st day of September, 1986;
- (b) the person is employed in education as a teacher in a designated private school on the 1st day of September, 1986;
- (c) the person continues to be employed in education for at least twenty working days in the school year commencing on the 1st day of September, 1986; and
- (d) the written notice of termination provided for in this section is delivered as required by this section before the 1st day of January, 1987 to the governing body of the designated private school where the person is employed and to the Commission,

and upon delivery of the notice of termination in accordance with this subsection, the person is, from and after the 1st day of September, 1986, entitled to the benefits and subject to the obligations of this Act.

5. Subsection 14 (2) of the said Act is amended by adding thereto the following paragraph:

4. Paragraph 3 does not apply if the person's credit in the Fund has been reduced to less than ten years by a refund made to the person under subsection 44 (4) or a predecessor thereof.

6. Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Where a person ceases to receive a superannuation allowance under this or a predecessor Act because of re-employment in education, and the re-employment is for less than one year, the person is entitled, upon the cessation of the re-employment and subject to subsection (3), to the resumption of the superannuation allowance to which the person was entitled immediately before the re-employment.

Resumption
of
super-
annuation
allowance

(2) Where a person ceases to receive a superannuation allowance under this or a predecessor Act because of re-employment in education, and the re-employment is for a period or periods equivalent to full-time employment in education for one year or more, the person is entitled, upon the cessation of the re-employment and subject to subsection (3), to apply for a superannuation allowance under this Act adjusted to reflect the contributions to the Fund by or for the person during the period of re-employment.

Application
for adjusted
allowance

(3) A person mentioned in subsection (1) or (2) who has received, during the re-employment in education, a superannuation allowance under this or a predecessor Act is not entitled to the resumption of superannuation allowance under subsection (1) or to apply for a superannuation allowance under subsection (2) until the person pays to the Fund an amount equal to the total of the superannuation allowance received by the person during the re-employment together with interest on each such superannuation allowance payment computed at the debenture rate for the fiscal year in which the person's re-employment in education commenced and for the period from the date when each such superannuation allowance payment was paid out of the Fund to the date when it is paid to the Fund.

Allowance to
be repaid

(4) This section applies despite subsection 76 (1).

Application
of section

7. The said Act is amended by adding thereto the following section:

Reduction
not to apply

18a. The reduction mentioned in paragraph 4 of subsection 13 (3) or in paragraph 4 of subsection 18 (2) does not apply in respect of a person who,

- (a) is entitled to an allowance under section 13 or 18;
- (b) has attained the age of fifty-five years;
- (c) has credit in the Fund for a period or periods equal to at least ten years of full-time employment in education; and
- (d) ceases to be employed in education after the 31st day of May, 1986 and before the 1st day of September, 1989.

8. Section 23 of the said Act is repealed and the following substituted therefor:

Effect of re-
employment
as a teacher

23.—(1) A person who is receiving a disability allowance under section 18 or a predecessor thereof, and who becomes employed as a teacher in a school or institution ceases to be entitled to the disability allowance until the person ceases to be so employed.

Re-
employment
in education
other than
as a teacher

(2) A person who is receiving a disability allowance under section 18 or a predecessor thereof, and who is employed in education otherwise than as a teacher, may continue to receive, subject to subsection (3), any disability allowance to which the person continues to be entitled.

Idem

(3) The disability allowance payable to a person mentioned in subsection (2) shall be reduced by the amount by which,

- (a) the aggregate of the disability allowance paid to the person in the year, plus the payments made to the person in the year under the *Superannuation Adjustment Benefits Act* in relation to that allowance, plus the salary paid to the person in the year in respect of employment in education,

exceeds an amount equal to,

- (b) the annual rate of salary paid to the person immediately before the cessation, by reason of the disability, of the person's employment in education and increased in each year after the person so ceased to be employed, to and including the year referred to in clause (a), in the same manner as a pension

R.S.O. 1980,
c. 490

would be increased under the *Superannuation Adjustment Benefits Act.* R.S.O. 1980.
c. 490

(4) This section applies despite subsection 76 (1).

Application
of section

9. Subsection 26 (1) of the said Act is amended by inserting after "Act" in the second line "other than a survivor allowance".

10. Subsection 28 (1) of the said Act is repealed and the following substituted therefor:

(1) The child or children of a person who,

- (a) dies while receiving or with a vested interest in an allowance under this Act; and
- (b) is survived by a spouse entitled to an annual survivor allowance in respect of the person,

Survivor
allowance
to child on
death of
surviving
spouse

are entitled upon the death of the spouse to an annual survivor allowance payable to or among such of the child or children as are, at the death of the spouse, under the age of eighteen years until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

11. Subsection 29 (1) of the said Act is repealed and the following substituted therefor:

(1) The child or children of a person who,

- (a) dies while receiving or with a vested interest in an allowance under this Act; and
- (b) is not survived by a spouse entitled to an annual survivor allowance under this Act in respect of the person,

Survivor
allowance
to child
where no
surviving
spouse

are entitled upon the death of the person to an annual survivor allowance payable to or among such of the child or children as are, at the death of the person, under the age of eighteen years until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

12. The said Act is further amended by adding thereto the following section:

Deduction
and
remittance
of health
insurance
premiums

R.S.O. 1980,
c. 218

Form of
direction

Application
of s. 43 (1)

Employment
for fewer
than
twenty days

Delivery of
valuations
to Minister

Transmittal
of copy to
Commission
R.S.O. 1980,
c. 373

37a.—(1) The Commission may accept and act upon a written direction from a person receiving an allowance under this or a predecessor Act that authorizes the Commission, on behalf of the person, to deduct and remit from the allowance,

- (a) premiums payable under the Ontario Health Insurance Plan by the person; or
- (b) premiums for medical, dental or health related insurance payable by the person under a contract of group insurance approved by the Commission for the purpose of this section and effected between an insurer within the meaning of the *Insurance Act* and the Superannuated Teachers of Ontario or any other organization prescribed by the regulations for the purpose of this section.

(2) The Commission is not required to accept or to act upon a direction that is not in a form approved by the Commission, and the Commission may impose and require compliance with such conditions as the Commission considers appropriate before accepting or acting upon a direction.

(3) Subsection 43 (1) (which prevents assignment of an allowance) does not apply to prevent deductions and remittances under subsections (1) and (2).

13. Section 46 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection (1), a person in receipt of a superannuation allowance under this or a predecessor Act who is employed in education for fewer than twenty days in a school year is entitled upon application to the Commission, after the end of the school year, to a refund of contributions made to the Fund by or for the person during the school year.

14. Section 64 of the said Act is amended by adding thereto the following subsections:

(4) The actuary shall deliver to the Minister every valuation made under subsection (3) forthwith after making the valuation.

(5) The Minister shall transmit to the Commission a copy of each valuation delivered by the actuary under subsection (4).

(6) The Minister shall transmit to the Pension Commission of Ontario the copies of valuations delivered by the actuary

under subsection (4) that are required by or under the *Pension Benefits Act*.

15.—(1) Clause 75 (1) (e) of the said Act is repealed and the following substituted therefor:

- (e) authorizing the Commission to require boards, contributors to the Fund, recipients of allowances under this Act or applicants for allowances under this Act to furnish information to or for the use of the Commission, and prescribing the form thereof and the information to be furnished.

(2) Subsection 75 (1) of the said Act is amended by adding thereto the following clauses:

- (t) providing for and regulating the granting of credit in the Fund to persons employed in education in respect of past teaching service in schools or institutions in Ontario prescribed for the purpose of this clause, prescribing conditions in respect of the giving of such credit, prescribing the amount or the method of calculating the amount of the credit, and prescribing the method of calculating the payment that must be made and the terms of payment to the Fund in order to obtain the credit;
- (u) prescribing minimum allowances under this or a predecessor Act and providing for the payment thereof or for payments to increase an allowance under this or a predecessor Act that is below the prescribed minimum allowance, prescribing the classes of persons to whom any such minimum allowance shall be paid, and providing for the payment out of the Consolidated Revenue Fund of all or any part of any such minimum allowance or of any amount to be paid to increase allowances under this or a predecessor Act to the amount of a prescribed minimum allowance.

16.—(1) This Act, except sections 1, 2, 3, 4, 5, 10, 11 and 13, comes into force on the day it receives Royal Assent. Commencement

(2) Subsections 1 (1) and (2) and sections 5, 10 and 11 shall be deemed to have come into force on the 1st day of September, 1984. Idem

(3) Subsections 1 (3), (4) and (5) and section 2 shall be deemed to have come into force on the 1st day of January, 1986. Idem

Idem

1983, c. 84

(4) Sections 3, 4 and 13 come into force on the 1st day of September, 1986 and apply in respect of school years, as defined in the *Teachers' Superannuation Act, 1983*, commencing on or after that date.

Short title

17. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1986*.

Bill 104

Private Member's Bill

1ST SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 104

An Act to amend the Municipal Elections Act

Mr. Brandt



1st Reading February 7th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

This Bill requires the holding of a judicial recount under the following circumstances,

- (a) where the winning candidate receives 500 votes or more and has a margin of victory that is 1 per cent or less of the total votes cast for him or her; or
- (b) where the winning candidate receives less than 500 votes and has a margin of victory of five votes or fewer.

The Bill also provides that in such a recount, the municipality will be responsible for the costs of recount.

Bill 104**1986****An Act to amend the Municipal Elections Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 83 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 37, section 14, is further amended by renumbering subsection (2a) as subsection (2b) and by adding thereto the following subsection:

(2a) The council of a municipality shall declare that a ^{Idem} recount is desirable in the public interest if,

- (a) the candidate declared elected has received five hundred or more votes and the difference in the number of votes between that candidate and another candidate for the same position is less than or equal to 1 per cent of the total number of votes cast for the candidate declared elected; or
- (b) the candidate declared elected has received fewer than five hundred votes and the difference in the number of votes between that candidate and another candidate for the same position is five votes or less.

2. Section 86 of the said Act is amended by adding thereto the following subsection:

(2a) Where a recount or final addition is held at the ^{Exception} instance of a municipality under subsection 83 (2a), the judge shall make no provision as to its costs.

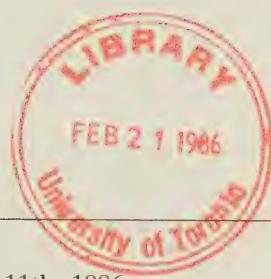
3. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

4. The short title of this Act is the *Municipal Elections Amendment Act, 1986*. ^{Short title}

Bill 105

An Act to provide Pay Equity for Employees in Predominantly Female Groups of Jobs in the Public Service

The Hon. W. Wrye
Minister of Labour



1st Reading February 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill provides for the redressing of systemic gender discrimination in compensation for work performed by employees in predominantly female groups of jobs in the public service of Ontario. Among the features of the Bill are the following:

1. The Act applies to the Crown in right of Ontario and the boards, agencies and commissions named in section 2, their respective employees and the bargaining agents of the employees.
2. Systemic gender discrimination will be identified through comparisons between a representative job level in each predominantly female group of jobs (as defined in section 1) and a job level in a predominantly male group of jobs (as defined in section 1) in terms of relative compensation and of the relative value of the work. (Section 3)
3. A criterion for determining value is set out. (Section 4)
4. A test for the achievement of pay equity is set out. (Section 5)
5. Pay equity plans must be established and implemented. (Section 6)
6. Every pay equity plan must provide for a gender-neutral job comparison or evaluation system and must provide for adjustments in rates of compensation in predominantly female groups of jobs, where necessary, to achieve pay equity. (Section 7)
7. An employer cannot reduce compensation to achieve pay equity. (Section 9)
8. Pay equity plans are binding on employers, employees and the bargaining agents of employees. (Section 10)
9. Pay equity plans must be acted upon as soon as they are filed with the Commission or as soon as they are established by it. (Subsection 11 (1))
10. Pay equity plans are to be developed in stages by each employer. Initially, for each employer, there will be a separate plan for each bargaining unit and a separate plan for those outside the bargaining units. (Parts III and IV). Then there will be a combined bargaining unit pay equity plan for each employer. (Part V). Finally, there will be a comprehensive pay equity plan for each employer that applies both inside and outside the bargaining units. (Part VI)
11. An employer will be required to make annual adjustments in rates of compensation representing at least 1 per cent of payroll for the preceding year until pay equity is achieved. However, during the initial phases of the first stage or if extensions of time are granted, the employer may be required to give increases in a year in excess of 1 per cent of payroll for the preceding year. (Subsections 11 (3) to (8))
12. Bargaining unit pay equity plans are to be negotiated between the employer and the appropriate bargaining agent or agents. If no agreement is reached, a single arbitrator will be appointed to decide the matters in issue. (Parts III and V)
13. The employer will be responsible for preparing non-bargaining unit and comprehensive pay equity plans. The employer will be required to consult the bargaining agents during the preparation of the comprehensive pay equity plan. (Parts IV and VI)

14. A commission known as the Pay Equity Commission is established. Among its powers, it may review and vary pay equity plans or establish plans where an employer has failed to do so. It will also be able to hear complaints. (Parts VII and VIII)

Bill 105**1986**

**An Act to provide Pay Equity for Employees
in Predominantly Female Groups of Jobs
in the Public Service**

CONTENTS

| Section | Section |
|---|---|
| PART I INTERPRETATION AND APPLICATION <ul style="list-style-type: none"> 1. Definitions 2. Application | PART VI COMPREHENSIVE PAY EQUITY PLANS <ul style="list-style-type: none"> 16. Preparation of plan |
| PART II PAY EQUITY: GENERAL <ul style="list-style-type: none"> 3. Purpose 4. Value determination 5. Achievement of pay equity 6. Pay equity plans required 7. Contents of plans 8. Exclusions from plans 9. Reduction of compensation prohibited 10. Employer, employees and bargaining agents bound by plan 11. Implementation of pay equity plans | PART VII PAY EQUITY COMMISSION <ul style="list-style-type: none"> 17. Commission established 18. Commission proceedings 19. Powers and duties 20. Review and approval of pay equity plans 21. Enforcement of orders and directions 22. Exclusive jurisdiction of Commission 23. Testimony in civil proceedings 24. Annual report |
| PART III BARGAINING UNIT PAY EQUITY PLANS <ul style="list-style-type: none"> 12. Negotiation of plan 13. Arbitration | PART VIII COMPLAINTS <ul style="list-style-type: none"> 25. Complaints during implementation of plans 26. Complaints after implementation of plans 27. Duty of Commission |
| PART IV NON-BARGAINING UNIT PAY EQUITY PLANS <ul style="list-style-type: none"> 14. Preparation of plan | PART IX MISCELLANEOUS <ul style="list-style-type: none"> 28. Regulations 29. Moneys 30. Commencement 31. Short title |
| PART V COMBINED BARGAINING UNIT PAY EQUITY PLANS <ul style="list-style-type: none"> 15. Negotiation of plan | |

Preamble

Whereas it is desirable that affirmative action be taken to provide for pay equity for employees employed in predominantly female groups of jobs in the public service of Ontario;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION AND APPLICATION

Definitions

1.—(1) In this Act,

R.S.O. 1980,
c. 108

“arbitrator” means a single arbitrator appointed by the Minister under section 13;

R.S.O. 1980,
c. 418

“bargaining agent” means,

- (a) an employee organization that has representation rights under the *Crown Employees Collective Bargaining Act*,
- (b) the Association authorized under the *Public Service Act* as exclusive bargaining agent for members of the Ontario Provincial Police;

“collective agreement” means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;

“Commission” means the Pay Equity Commission established by this Act;

“compensation” means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;

“effective date” means the day Part II comes into force;

“employee” means,

- (a) a public servant as defined in the *Public Service Act*,
- (b) a person employed by The Niagara Parks Commission, Liquor Control Board of Ontario, Liquor Licence Board, Ontario Housing Corporation, Toronto Area Transit Operating Authority or Workers’ Compensation Board;

“employer” means the employer of an employee to whom this Act applies;

“group of jobs” means a grouping or series of jobs that bear a relationship to each other because of the nature of the work required to perform them and that are organized in successive job levels, and, where there are no such job levels, means jobs that are grouped together for the purposes of compensation;

“job level” means,

- (a) a grade or rank of jobs within a group of jobs that has a rate or range of salary assigned to the grade or rank,
- (b) a group of jobs, if the group of jobs contains no grades or ranks;

“job rate” means the highest rate of compensation for a job level;

“Minister” means the Minister of Labour or such other member of the Executive Council to whom the administration of this Act may be assigned;

“predominantly female group of jobs” means,

- (a) a group of jobs that, on the effective date, has 60 per cent or more of the positions in the group occupied by women,
- (b) if Part III or V applies, a group of jobs that the employer and the bargaining agent or agents agree to designate as a predominantly female group of jobs,
- (c) if Part IV or VI applies, a group of jobs that the employer, with the Commission’s approval, designates as a predominantly female group of jobs,
- (d) a group of jobs that is designated by the regulations made under this Act as a predominantly female group of jobs;

“predominantly male group of jobs” means,

- (a) a group of jobs that, on the effective date, has 70 per cent or more of the positions in the group occupied by men,

- (b) if Part III or V applies, a group of jobs that the employer and the bargaining agent or agents agree to designate as a predominantly male group of jobs;
- (c) if Part IV or VI applies, a group of jobs that the employer, with the Commission's approval, designates as a predominantly male group of jobs;
- (d) a group of jobs that is designated by the regulations made under this Act as a predominantly male group of jobs;

"representative job level in a predominantly female group of jobs" means the job level in a predominantly female group of jobs that has the greatest number of employees.

L.C.B.O.
and
L.L.B.
deemed
one employer

(2) For the purposes of this Act, the Liquor Licence Board and the Liquor Control Board of Ontario shall be deemed to be one employer and their employees shall be deemed to be jointly employed by them.

Effect of
designation
of groups
of jobs

(3) Where a group of jobs is designated as a predominantly female group of jobs or as a predominantly male group of jobs, the designation, subject to any order or direction of the Commission, is binding upon the employer, the employees of the employer and the bargaining agent, if any, of the employees.

Determi-
nation
of
representative
job level

(4) Where two or more job levels in a female group of jobs have the same number of employees, the job level with the higher or highest job rate shall be deemed to have the greater or greatest number of employees.

Application

R.S.O. 1980,
c. 418

2. This Act applies to,

- (a) the Crown in right of Ontario and public servants as defined in the *Public Service Act*;
- (b) The Niagara Parks Commission, Liquor Control Board of Ontario, Liquor Licence Board, Ontario Housing Corporation, Toronto Area Transit Operating Authority and Workers' Compensation Board and their respective employees; and
- (c) bargaining agents representing employees to whom this Act applies.

PART II

PAY EQUITY: GENERAL

3.—(1) The purpose of pay equity is to redress systemic gender discrimination in compensation for work performed by employees employed in predominantly female groups of jobs in the public service of Ontario. Purpose

(2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between the representative job level in a predominantly female group of jobs and a job level in a predominantly male group of jobs in terms of relative pay and in terms of the relative value of the work performed. Identification of discrimination

4. The criterion to be applied in determining value of work for the purpose of this Act shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed. Value determination

5.—(1) For the purposes of this Act, pay equity is achieved when the job rate for the representative job level in a predominantly female group of jobs is at least equal to the job rate for a job level in any predominantly male group of jobs where the work performed in the two job levels is of equal or comparable value. Achievement of pay equity

(2) Where more than one comparison is possible between the representative job level in a predominantly female group of jobs and job levels in predominantly male groups of jobs where the work performed in all job levels is of equal or comparable value, pay equity is achieved when the job rate for the representative job level in the predominantly female group is at least as great as the job rate for the job level in the predominantly male group with the lowest job rate. Basis of comparison

(3) A job level in a predominantly male group of jobs shall not be used for purposes of comparison if less than 70 per cent of the employees in the job level on the effective date are male. Idem

(4) For the purposes of this Act, differences in rates of compensation between job levels in predominantly male groups of jobs of equal or comparable value shall be deemed not to reflect gender bias. Different rates in predominantly male groups

Pay equity
plans
required

Contents of
plans

6. Plans to provide for pay equity for predominantly female groups of jobs shall be established and implemented in accordance with this Act.

7. A pay equity plan,

- (a) shall provide for the development or selection of a gender-neutral job comparison or evaluation system;
- (b) shall identify all predominantly female groups of jobs and all predominantly male groups of jobs;
- (c) shall provide for the application of the system referred to in clause (a) to positions in the predominantly female groups of jobs and in the predominantly male groups of jobs; and
- (d) shall provide for the adjustment of the rates of compensation in the representative job level in a predominantly female group of jobs, where necessary, to achieve pay equity and shall provide that where such adjustments are required to be made, all job levels in the same predominantly female group of jobs as the representative job level shall receive the same percentage adjustment of their rates of compensation when the plan is fully implemented.

Exclusions
from plans

8.—(1) A position that the employer, acting in good faith, designates as,

- (a) a temporary training position;
- (b) a student position;
- (c) a rehabilitation position;
- (d) a casual position; or
- (e) a position for which there is a temporary labour shortage,

or a position that the Commission designates for the purposes of this section may be excluded in determining the gender predominance of any group of jobs and need not be included in a pay equity plan.

Idem

(2) A position shall not be designated for the purposes of this Act as a casual position if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies for similar full-time work.

9. An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

Reduction of compensation prohibited

10.—(1) A pay equity plan and all amendments to it that the Commission directs or orders are binding upon the employer, the employees in the positions to which the pay equity plan applies and the bargaining agent, if any, of the employees.

Employer, employees and bargaining agents bound by plan

(2) A pay equity plan prevails over the provisions of all relevant collective agreements and the adjustments to rates of compensation required by the plan, from the date the plan is filed by the employer with the Commission or established by it, shall be deemed to be incorporated into and form part of the relevant collective agreements, if any, and of ensuing collective agreements, if any, entered into during the implementation period and the relevant collective agreements shall be amended accordingly.

Plan to prevail over collective agreements

(3) Subsection (2) applies with necessary modifications to amendments to a pay equity plan directed or ordered by the Commission.

Idem

11.—(1) As soon as a pay equity plan has been filed with the Commission or established by it, the employer shall take all necessary steps, by way of job audits or otherwise, to prepare for implementation of the plan.

Implementation of pay equity plans

(2) If, after the filing of a pay equity plan, the Commission directs or orders any amendments to it, the amendments shall be deemed to be incorporated into and form part of the plan.

Changes in plans

(3) An employer shall begin making adjustments to rates of compensation under a pay equity plan as soon as possible after the plan is filed with the Commission or established by it and,

First adjustments

- (a) if the plan is one to which Part III applies, the first adjustments,
 - (i) shall be made no later than the day eighteen months from the date of filing or establishment of the plan, and
 - (ii) shall be such that compensation payable during the twelve-month period following the first adjustments shall be increased by not less than 1 per cent of the employer's payroll for the bargaining unit to which the plan applies since the date on which bargaining with respect to the plan was required to commence under section 12 or not less than the amount required to achieve pay equity under the plan, whichever is less;
- (b) if the plan is one to which Part IV applies, the first adjustments,
 - (i) shall be made no later than the day eighteen months from the date of filing or establishment of the plan, and
 - (ii) shall be such that compensation payable during the twelve-month period following the first adjustments shall be increased by not less than 1 per cent of the employer's payroll for employees who are not in a bargaining unit since the date on which preparation of the plan was required to commence under section 14 or not less than the amount required to achieve pay equity under the plan, whichever is less;
- (c) if the plan is one to which Part V applies, the first adjustments shall be made no later than the later of,
 - (i) the day twelve months from the date of filing or establishment of the plan, and
 - (ii) the day after the last adjustment required to be made by the employer under all plans to which Part III applies; and
- (d) if the plan is one to which Part VI applies, the first adjustments shall be made no later than the later of,

- (i) the day twelve months from the date of filing or establishment of the plan, and
- (ii) the day after the last adjustment required to be made by the employer under the plan to which Part V applies, or, if no plan is required under Part V, the day after the last adjustment required to be made by the employer under all plans to which Parts III and IV apply.

(4) Where an employer under a pay equity plan to which Part III or IV applies makes adjustments in rates of compensation over a period of years, the employer, not later than each anniversary of the first adjustments to rates of compensation made under the relevant plan under subsection (3), shall make further adjustments in rates of compensation until pay equity is achieved under the plan such that in the twelve-month period following the anniversary the compensation payable under the plan shall be increased by at least,

Minimum
adjustments,
Parts III
and IV

- (a) 1 per cent of the employer's payroll for the relevant bargaining unit for the twelve-month period preceding the anniversary if Part III applies to the plan; and
- (b) 1 per cent of the employer's payroll for employees who are not in a bargaining unit for the twelve-month period preceding the anniversary if Part IV applies to the plan,

unless the remaining amount payable in relation to the relevant plan is less than 1 per cent of the relevant payroll, in which case the adjustments shall equal the amount required to achieve pay equity under that plan.

(5) Where pay equity has been achieved under a pay equity plan to which Part III or IV applies but has not been achieved under one or more other plans to which either of those Parts apply, adjustments in rates of compensation for the other plan or plans shall be increased such that the amounts payable by the employer under all plans shall be at least equal to the amount that would have been payable had pay equity not been achieved under any plan.

Idem

(6) Where an employer under a pay equity plan to which Part V or VI applies makes adjustments in rates of compensation over a period of years, the employer, not later than each anniversary of the first adjustments to rates of compensation made under the relevant plan under subsection (3), shall make

Minimum
adjustments,
Parts V
and VI

further adjustments in rates of compensation until pay equity is achieved under the plan such that in the twelve-month period following the anniversary the compensation payable under the plan shall be increased by at least 1 per cent of the employer's payroll for all its employees for the twelve-month period preceding the anniversary, unless the remaining amount payable in relation to the relevant plan is less than such 1 per cent, in which case the adjustments shall equal the amount required to achieve pay equity under the relevant plan.

Where time extended

(7) Where the Commission extends the time limit for the filing of a pay equity plan or for the making of the first adjustments in rates of compensation under a pay equity plan, retro-active adjustments shall be made in rates of compensation under all pay equity plans of the employer to reflect the compensation that would have been payable had the extension not been granted.

Limitation

(8) Except as provided in subsections (3) and (7), nothing in this Part requires an employer to increase compensation payable under pay equity plans during a twelve-month period in an amount greater than 1 per cent of the employer's payroll for all its employees during the preceding twelve-month period.

Definition

(9) In this section, "payroll" means the total of all compensation payable to the employees of the employer described in the relevant provision.

PART III

BARGAINING UNIT PAY EQUITY PLANS

Negotiation of plan

12.—(1) Notwithstanding any other Act, each employer and each bargaining agent for the employees of the employer shall negotiate in good faith and endeavour to agree on a pay equity plan to provide for pay equity in predominantly female groups of jobs in the bargaining unit represented by the bargaining agent in relation to predominantly male groups of jobs in the bargaining unit.

Idem

(2) A pay equity plan under subsection (1) shall be in writing and shall be executed by the employer and the bargaining agent.

Idem

(3) Forthwith after the execution of a pay equity plan, the employer shall file a copy of the plan with the Commission.

13.—(1) If the employer and the bargaining agent fail to agree on a pay equity plan as provided in section 12 within ninety days from the effective date, either party may refer the matter to arbitration by giving notice to the Minister that the parties have been unable to agree on the terms of a plan. Arbitration

(2) Within ten days after receiving a notice under subsection (1), the Minister shall appoint a person to act as a single arbitrator and the arbitrator, within ninety days, shall examine into and decide on all matters that are in dispute in order to conclude a pay equity plan. Single arbitrator

(3) Within ten days of the date of the arbitrator's decision, the employer and the bargaining agent shall prepare and execute a document giving effect to the decision and to any agreement between the employer and the bargaining agent. Giving effect to decision

(4) The document referred to in subsection (3) constitutes a pay equity plan when executed and the employer shall forthwith after its execution file a copy of the document with the Commission. Idem

(5) If the employer and the bargaining agent fail to comply with subsection (3) within the period referred to in that subsection, the employer shall forthwith notify the arbitrator of the failure. Idem

(6) Nothing in subsection (5) prevents a bargaining agent from notifying the arbitrator of a failure to comply with subsection (3). Idem

(7) If the arbitrator receives notice of a failure to comply with subsection (3), the arbitrator shall prepare a document giving effect to the decision and any agreement between the employer and the bargaining agent, and the arbitrator shall submit the document to the employer and the bargaining agent for execution. Idem

(8) The document referred to in subsection (7) constitutes a pay equity plan when executed and the employer shall forthwith after its execution file a copy of the plan with the Commission. Idem

(9) If the document referred to in subsection (7) is not executed by both the employer and the bargaining agent within ten days from the date of its submission to them, the document shall constitute a pay equity plan as though it had been signed by both and a copy of the plan shall be filed, forthwith, by the arbitrator with the Commission. Idem

Delay in
making
decision

(10) If in the Minister's opinion the arbitrator has failed to enter into or carry out his or her duties so as to enable the arbitrator to render a decision within ninety days from the time of the arbitrator's appointment, the Minister may dismiss the arbitrator and appoint another person as single arbitrator or the Minister may require the Commission to establish the pay equity plan.

Remuneration
and expenses

(11) Arbitrators shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council, and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.

Powers of
arbitrators

(12) An arbitrator has power,

- (a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath, in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;
- (d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or her, and inspect and view any work or thing therein, and question any person respecting any such thing or any of such differences;
- (e) to authorize any person to do anything that the arbitrator may do under clause (d) and to report on it to the arbitrator.

R.S.O. 1980,
c. 25 does
not apply

(13) The *Arbitrations Act* does not apply to arbitrations under this Act.

PART IV

NON-BARGAINING UNIT PAY EQUITY PLANS

Preparation
of plan

14.—(1) Notwithstanding any other Act, each employer, within ninety days from the effective date, shall prepare a written plan to provide for pay equity for the predominantly

female groups of jobs that are not in a bargaining unit in relation to predominantly male groups of jobs that are not in a bargaining unit and, forthwith after preparing the plan, the employer shall file a copy of it with the Commission.

(2) The employer shall notify all employees of the date on which the pay equity plan was filed with the Commission. ^{Idem}

(3) Where the employer fails to comply with subsection (1), any employee of the employer may give notice of such fact to the Commission. ^{Idem}

PART V

COMBINED BARGAINING UNIT PAY EQUITY PLANS

15.—(1) Notwithstanding any other Act, where an employer has employees in more than one bargaining unit, as soon as pay equity plans for all the bargaining units to which Part III applies have been filed with the Commission or established by it, the employer and the bargaining agents for the employees of the employer shall negotiate together in good faith and endeavour to agree upon a pay equity plan to provide for pay equity across all of the bargaining units. ^{Negotiation of plan}

(2) A pay equity plan under subsection (1) shall be in writing and shall be executed by the employer and the bargaining agents. ^{Idem}

(3) Forthwith after the execution of a pay equity plan, the employer shall file a copy of the plan with the Commission. ^{Idem}

(4) If the employer and the bargaining agents fail to agree on a pay equity plan as provided in subsection (1) within six months from the last date on which a plan to which Part III applies was filed with the Commission or established by it, any party may refer the matter to arbitration by giving notice to the Minister that the parties have been unable to agree on the terms of a plan. ^{Arbitration}

(5) Section 13 applies with necessary modifications if a matter is referred to arbitration under subsection (4) except that the period of ninety days referred to in subsections 13 (2) and (10) shall be deemed to be six months. ^{Idem}

PART VI

COMPREHENSIVE PAY EQUITY PLANS

Preparation
of plan

16.—(1) Notwithstanding any other Act, as soon as the pay equity plans to which Parts III and IV apply have been filed with the Commission or established by it, the employer, within eighteen months from the last date on which a plan is filed with the Commission under Part III or IV or established by it and in consultation with the bargaining agents, if any, for the employees of the employer, shall prepare a written plan to provide for pay equity both across bargaining units and inside and outside the bargaining units and, forthwith after preparing the plan, the employer shall file a copy of it with the Commission.

Idem

(2) The employer shall notify all employees of the date on which the pay equity plan was filed with the Commission.

Idem

(3) Where the employer fails to comply with subsection (1), any employee of the employer may give notice of such fact to the Commission.

PART VII

PAY EQUITY COMMISSION

Commission
established

17.—(1) There is hereby established a commission to be known as the Pay Equity Commission.

Composition
and
appointment

(2) The Commission shall be composed of a presiding officer, one or more deputy presiding officers and as many members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Alternate
presiding
officer

(3) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.

Remuneration
and expenses

(4) The members of the Commission who are not officers in the public service of Ontario shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and, subject to the approval of Management Board of Cabinet, the reasonable expenses incurred by them in the course of their duties under this Act.

(5) Where a member of the Commission resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Commission.

Resignation
of member

(6) In exercising its powers under this Act, the Commission shall, if appropriate, make use of the services and facilities of a ministry, board, commission or agency of the Government of Ontario.

Services of
ministries,
boards, etc.

(7) Officers and employees necessary for the proper conduct of the Commission's work may be appointed under the *Public Service Act* and the Commission, subject to the approval of Management Board of Cabinet, may engage, under contract, the persons, including professionals and experts, that it considers necessary to exercise its powers and to carry out its duties.

Staff and
other
assistance
R.S.O. 1980,
c. 418

18.—(1) The Commission may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that any person seeking a determination of any matter by the Commission shall give written notice, in such form and manner as the Commission specifies, to the persons that the Commission specifies.

Commission
proceedings

(2) The presiding officer may establish panels of the Commission and it may sit in two or more panels simultaneously so long as a quorum of the Commission is present on each panel.

Panels

(3) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Commission.

Quorum

(4) The decision of the majority of the members of the Commission present and constituting a quorum is the decision of the Commission, but, if there is no majority, the decision of the presiding officer or deputy presiding officer governs.

Decisions

(5) Notwithstanding subsection (4), the presiding officer, if he or she is of the opinion that it is advisable to do so, may sit alone to hear and determine or may authorize a deputy presiding officer to sit alone and hear and determine any matter or thing and to exercise all of the jurisdiction and powers of the Commission.

Decisions
of single
member

Hearings and submissions

(6) In exercising powers and carrying out duties conferred on the Commission under clauses 19 (2) (j), (l) and (m), section 20 or Part VIII, the Commission shall hold a hearing and afford the parties an opportunity to make oral and written submissions to the Commission or it may dispense with a hearing if it permits the parties the opportunity to make written submissions as the Commission may direct.

Parties

- (7) The parties to a proceeding before the Commission are,
- (a) the employer;
 - (b) if Part VIII applies, the person or persons making the complaint; and
 - (c) the bargaining agent, if any, for the employees of the employer; or
 - (d) if there is no bargaining agent, the employees of the employer.

Notice

(8) A notice of a proceeding or other matter before the Commission that is required to be given to the employees of an employer shall be deemed to have been sufficiently given if it is prominently posted in each place where the employees work or if it is published in a manner that is likely to bring it to their attention.

Representation

(9) One or more employees may appoint any person or organization to act as their agent before the Commission.

Powers and duties

19.—(1) The Commission may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act and, without restricting the generality of the foregoing, it may exercise such powers and shall perform such duties as are or may be necessary to permit it to determine that pay equity plans comply with the intent and purpose of this Act and are implemented in accordance with this Act.

Incidental powers

- (2) Without limiting the generality of subsection (1), the Commission has power,
- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath;
 - (b) to require the production of such documents, records, reports or things as the Commission considers necessary to permit it to investigate and consider any matter within its jurisdiction;

- (c) to administer oaths;
- (d) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (e) to require an employer to give any notices that the Commission considers necessary to provide notice of proceedings before the Commission or any direction or orders made by it;
- (f) to enter any premises where work is being done or has been done or in which the employer carries on business or where anything is taking place or has taken place concerning any matter in relation to which the Commission has jurisdiction, and inspect and view any work or thing therein, and question any person respecting any such thing or any such matter;
- (g) to monitor the implementation of every pay equity plan and compliance with the Commission's directions and orders and this Act;
- (h) to authorize any person to do anything that the Commission may do under clauses (a) to (g) and to report to the Commission thereon;
- (i) to authorize the presiding officer or a deputy presiding officer to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Commission, or any part of any of them, and to report to the Commission thereon;
- (j) to make such orders as are necessary to ensure that a pay equity plan is implemented and that there is compliance with its directions and orders;
- (k) to recommend to the Lieutenant Governor in Council that a group of jobs be designated as a predominantly female group of jobs or as a predominantly male group of jobs and in making such a recommendation, the Commission shall consider such criteria, including historical trends, as it considers relevant;
- (l) to approve, on the application of an employer, the designation by the employer of a group of jobs as a predominantly female group of jobs or as a predom-

inantly male group of jobs for the purposes of a pay equity plan to which Part IV or VI applies; and

- (m) to extend any time limit mentioned in this Act notwithstanding that the time limit has expired.

Access to information

(3) Where, with respect to a particular pay equity plan, the Commission exercises its powers under clause (2) (b), the Commission shall allow reasonable access by any person to the information received by it.

Conditions in orders and directions

(4) The Commission may impose conditions, including time limits, in respect of its orders and directions.

Research and education

(5) The Commission may conduct research and produce papers related to pay equity and related subjects and conduct public education programs related to pay equity and related subjects.

Review and approval of pay equity plans

20.—(1) The Commission shall review every pay equity plan filed with it, and,

- (a) if the Commission decides that the plan complies with the intent and purposes of this Act, it shall advise the parties of its decision; or
- (b) if the Commission decides that the plan does not comply with the intent and purposes of this Act, it may direct such amendments as are necessary to achieve such compliance.

Idem

(2) If a direction is given under clause (1) (b), the Commission shall allow the employer and, if the plan is one to which Part III or V applies, the bargaining agent thirty days to make such amendments to the pay equity plan as are necessary to give effect to the direction, and the amendments shall be filed by the employer with the Commission forthwith upon the amendments being made.

Idem

(3) If the Commission decides that a pay equity plan together with the amendments filed under subsection (2) complies with the intent and purposes of this Act, it shall advise the parties of its decision.

Imposed plans

(4) If the employer fails to file a pay equity plan as required by Part IV or VI or fails to file an amended pay equity plan as required by subsection (2) or the Minister refers a matter to it under section 13 or the Commission is of the opinion that an amended pay equity plan does not comply with the intent and purposes of this Act, the Commission may

by order establish or amend a pay equity plan, as may be appropriate.

21.—(1) A copy of an order or direction of the Commission certified by a member of the Commission may be filed in the office of the Registrar of the Supreme Court by the Commission. Enforcement of orders and directions

(2) When a copy has been filed under subsection (1), the order or direction may be enforced by an application for such order as the court may consider just. Idem

(3) An application under subsection (2) may be made by the Commission, or by any person who could have been a party to the proceeding in which the order or direction was made. Idem

22.—(1) The Commission has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Commission thereon is final and conclusive for all purposes. Exclusive jurisdiction of Commission

(2) The Commission may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke it. Reconsideration of decisions, etc.

23. Except with the consent of the Commission, no member of the Commission, nor any of its officers or employees nor any other person whose services have been contracted for by the Commission, shall be required to give testimony in any civil proceeding or in any proceeding before the Commission or any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act. Testimony in civil proceedings

24. The Commission shall make an annual report of its activities and affairs to the Minister not later than the 30th day of June in each year and the Minister shall table the report before the Assembly if it is in session or, if not, at the next session. Annual report

PART VIII

COMPLAINTS

25.—(1) After the filing of a pay equity plan with the Commission, any employee or employees bound by the plan, or their bargaining agent, if any, may file a complaint with the Commission, complaining that, Complaints during implementation of plans

- (a) the job comparison or evaluation system contained in the plan is not gender-neutral or is inappropriate, or both;
- (b) the predominantly female groups of jobs and the predominantly male groups or any of them have not been properly identified or are inappropriate, or both;
- (c) the method of applying the job comparison or evaluation system is inappropriate;
- (d) the job comparison or evaluation system is not being properly applied; or
- (e) adjustments to compensation are not being made as required.

Time limits

(2) No complaints may be filed with respect to a matter described in clause (1) (a), (b) or (c) more than ninety days after the filing with the Commission or the establishment by it of the pay equity plan to which the complaint relates.

Idem

(3) No complaint may be filed with respect to a matter described in clause (1) (d) or (e) until the first adjustments in compensation are required to be made under the pay equity plan to which the complaint relates and no such complaint may be made more than,

- (a) six months after the first adjustments are required to be made if clause (1) (d) applies; or
- (b) one year after the last adjustments should have been made had the pay equity plan been implemented as required if clause (1) (e) applies.

Complaints
after
implemen-
tation
of plans

26. Following the completion of the compensation adjustments pursuant to all pay equity plans, an employer shall not engage in gender-biased compensation practices and any employee or employees of the employer may file a complaint with the Commission respecting any gender-biased compensation practices that affect pay equity and that are implemented by the employer after the completion of the compensation adjustments.

Duty of
Commission

27.—(1) The Commission shall inquire into a complaint under section 25 or 26 and investigate and determine its subject-matter and the Commission may order an employer or bargaining agent to take such action or refrain from such action as in the opinion of the Commission is required.

(2) The Commission shall make every effort reasonable in ^{Idem} the circumstances to determine a complaint under clause 25 (1) (a), (b), (c) or (e) within three months of its filing and a complaint under clause 25 (1) (d) within six months of its filing.

PART IX

MISCELLANEOUS

28.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) defining any word or expression not expressly defined in this Act;
- (b) further defining the expression “compensation” or prescribing amounts or benefits, or classes of amounts or benefits, which shall be deemed to be compensation for the purposes of this Act;
- (c) further defining the expression “group of jobs” or prescribing positions that shall be deemed to form a group of jobs for the purposes of this Act;
- (d) prescribing criteria for determining whether a temporary labour shortage exists;
- (e) providing for the requisite features of a gender-neutral job comparison or evaluation system;
- (f) designating, on the recommendation of the Commission, any group of jobs as a predominantly female group of jobs or as a predominantly male group of jobs.

(2) A regulation made under subsection (1) may, if it so provides, be made retroactive to a day not earlier than the effective date. ^{Retroactive regulations}

29. The moneys required for the purposes of this Act ^{Moneys} shall, until the 31st day of March, 1987, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

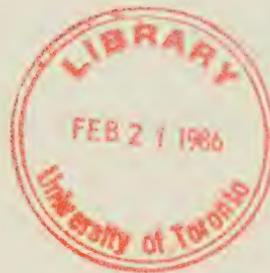
30. This Act comes into force on a day to be named by ^{Commencement} proclamation of the Lieutenant Governor.

31. The short title of this Act is the *Public Service Pay Equity Act, 1986*. ^{Short title}

Bill 106

An Act to amend the Ontario Institute for Studies in Education Act

Ms Bryden



1st Reading February 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to give the Ontario Institute for Studies in Education the power to grant degrees, including honorary degrees, diplomas and certificates in education.

Bill 106**1986**

**An Act to amend the
Ontario Institute for Studies in Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Ontario Institute for Studies in Education Act*, being chapter 341 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ea) provide for the granting of and grant degrees, including honorary degrees, diplomas and certificates in education.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Ontario Institute for Studies in Education Amendment Act, 1986*. Short title

Bill 107

An Act to amend the Municipal Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading February 11th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill authorizes the councils of counties to establish and operate aerial spraying programs to control actual or potential infestations of gypsy moths.

Bill 107**1986****An Act to amend the Municipal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

225a.—(1) By-laws may be passed by the councils of counties for establishing and operating aerial spraying programs to control actual or potential infestations of gypsy moths.

(2) A program established and operated under subsection (1) shall provide that the aerial spraying shall be carried out, under contract, by a person licensed under the law of Ontario to conduct aerial spraying.

(3) For the purposes of a program established and operated under subsection (1), the council of a county may enter agreements with an owner of land for the aerial spraying of the owner's land and such an agreement shall provide that the county's cost for the spraying of the land shall be paid before commencing the spraying.

(4) Where land to which an agreement under subsection (3) applies is in the possession of a tenant, the agreement shall not come into force until the tenant concurs in the agreement.

(5) The council of a county and the Minister of Natural Resources may enter into agreements providing, subject to such terms and conditions as are set out in the agreement, for the indemnification of the county by the Province of Ontario for all damages and costs of proceedings resulting from a program established and operated under subsection (1).

(6) No aerial spraying shall be undertaken under a program established and operated under subsection (1) until an agreement, as described in subsection (5), has been entered into by

Gypsy moth
control
programs

Idem

Agreements
with land
owners

Idem

Indemnity
agreements

the council of the county and the Minister of Natural Resources.

Commencement

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Municipal Amendment Act, 1986*.

6 Bill 107

1ST SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 107

(*Chapter 14*
Statutes of Ontario, 1986)

An Act to amend the Municipal Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | February 11th, 1986 |
| <i>2nd Reading</i> | February 12th, 1986 |
| <i>3rd Reading</i> | February 12th, 1986 |
| <i>Royal Assent</i> | February 12th, 1986 |

Bill 107**1986****An Act to amend the Municipal Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

225a.—(1) By-laws may be passed by the councils of counties for establishing and operating aerial spraying programs to control actual or potential infestations of gypsy moths.

Gypsy moth
control
programs

(2) A program established and operated under subsection (1) shall provide that the aerial spraying shall be carried out, under contract, by a person licensed under the law of Ontario to conduct aerial spraying.

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Agreements
with land
owners

(4) Where land to which an agreement under subsection (3) applies is in the possession of a tenant, the agreement shall not come into force until the tenant concurs in the agreement.

(5) The council of a county and the Minister of Natural Resources may enter into agreements providing, subject to such terms and conditions as are set out in the agreement, for the indemnification of the county by the Province of Ontario for all damages and costs of proceedings resulting from a program established and operated under subsection (1).

Indemnity
agreements

(6) No aerial spraying shall be undertaken under a program established and operated under subsection (1) until an agreement, as described in subsection (5), has been entered into by

Idem

the council of the county and the Minister of Natural Resources.

Commencement

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Municipal Amendment Act, 1986*.

1ST SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

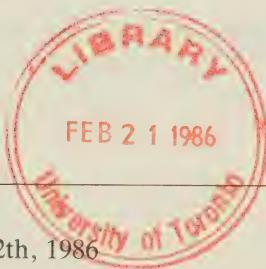
Publication

Bill 108

An Act to amend the Insurance Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



1st Reading February 12th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The new definitions are complementary to amendments set out in sections 3, 5, 7 and 8 of the Bill.

SECTION 2. The amendment is complementary to new regulation making powers related to reinsurance set out in section 8 of the Bill.

SECTION 3. The proposed section 24a requires property and casualty insurers in Ontario to be members of a compensation association which will be established by the insurance industry to provide compensation to policy holders of insurers licensed in Ontario that have become insolvent.

SECTION 4. The proposed amendments to section 28 increase the paid up capital and surplus of property and casualty insurers from \$1,000,000 to \$3,000,000. Existing companies will have five years to meet the new requirements.

SECTIONS 5 and 6. The proposed section 39a imposes additional requirements on licensed insurers (other than those referred to in subsection 39a (2)). These requirements may be enforced under section 38 of the Act through suspension or cancellation of the licence of the insurer or, in the case of an Ontario company, through the remedial powers of the Minister set out in section 40 of the Act, as amended by section 6 of the Bill. Section 6 will also extend the Minister's remedial powers to include situations where the paid up capital and surplus requirements of section 28 are not being maintained.

SECTION 7. The proposed section 97a authorizes the Minister to enter into agreements with a compensation association related to a compensation plan for policyholders of insolvent insurers.

SECTION 8. Section 98 of the Act sets out several regulation making powers. The proposed clause (aa) will enable the Lieutenant Governor in Council to prescribe forms and provide for their use. The proposed clause (af) will enable the Lieutenant Governor in Council to restrict the amount of business that may be reinsured through insurers that are not licensed in Ontario. The other proposed clauses are complementary to the amendments to the Act set out in sections 3 and 5 of the Bill.

Bill 108**1986****An Act to amend the Insurance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, as amended by section 398 of the said chapter 218, is further amended by adding thereto the following paragraph:

13a. “compensation association” means a body corporate or unincorporated association the purpose of which is to provide compensation to claimants and policyholders of insolvent insurers and that has been designated under the regulations as a compensation association.

2. Section 22 of the said Act is amended by adding at the commencement thereof “Subject to the regulations”.

3. The said Act is amended by adding thereto the following section:

24a.—(1) Where a compensation association has been designated by the regulations as a compensation association for any of the following classes of insurance,

Membership
in compen-
sation
association

- (a) automobile insurance;
- (b) boiler and machinery insurance;
- (c) fire insurance;
- (d) inland transportation insurance;
- (e) live stock insurance;
- (f) public liability insurance;
- (g) plate glass insurance;

- (h) property damage insurance;
- (i) sprinkler leakage insurance;
- (j) theft insurance;
- (k) weather insurance; or
- (l) any such class or classes of insurance as may be designated in the regulations,

every insurer while licensed to carry on that class of insurance and for 183 days after ceasing to be so licensed shall be deemed to be a member of the compensation association and shall be bound by the by-laws and memorandum of operation of the compensation association.

**Assessments
and levies**

(2) A member of a compensation association shall pay to the compensation association all assessments and levies made against the member by the compensation association, and, where the member fails to pay the assessment or levy within thirty days of the day the notice of the assessment or levy is mailed to the member,

- (a) the compensation association may claim the amount of the assessment or levy, with interest, as a debt due from the member or if the insurer has ceased to be a member, from the former member; and
- (b) the licence of the member to carry on insurance may be cancelled.

**Non-
application**

(3) Subsections (1) and (2) do not apply to,

- (a) a mutual insurance corporation that is a member of the Fire Mutuals Guarantee Fund or such other insurers designated under the regulations as being adequately covered by some other plan of compensation; or
- (b) an insurer whose business is limited to that of re-insurance.

4. Subsection 28 (1) of the said Act is repealed and the following substituted therefor:

**Capital
requirements
for licence**

(1) A licence shall not be granted to a joint stock insurance company not licensed before the 1st day of January, 1971 unless the company furnishes to the Superintendent satisfactory evidence that if the company is applying for a licence to

transact the business of life insurance, the company has paid up capital and surplus of not less than \$2,000,000, or such greater amount as the Minister in the circumstances may require, of which at least \$1,000,000 is paid up capital and at least \$500,000 is unimpaired surplus.

(1a) A licence shall not be granted to a joint stock insurance company unless the company furnishes to the Superintendent satisfactory evidence that if the company is applying for a licence to transact any insurance other than life insurance, the company has, in aggregate, a paid up capital and unimpaired surplus of not less than \$3,000,000 or such greater amount as the Minister in the circumstances may require. Idem

(1b) Subsection (1a) does not apply until the 1st day of January, 1991 to a joint stock insurance company that immediately before the coming into force of that subsection was licensed under this Act, but the company shall furnish to the Superintendent satisfactory evidence when applying for a licence to transact any insurance, other than life insurance, that the company has, in aggregate, a paid up capital and unimpaired surplus of not less than \$1,000,000 or such greater amount as the Minister in the circumstances may require. Idem

(1c) A licence shall not be granted to a mutual insurance corporation, a cash-mutual insurance corporation, an insurance company mentioned in paragraph 6 of subsection 23 (1), or to an underwriter or syndicate of underwriters operating on the plan known as Lloyds, except upon proof that the net surplus of assets over all liabilities exceeds the amount fixed by subsection (1a) or (1b), as the case may be, for the paid in capital stock of joint stock insurance companies, and that such net surplus of assets over all liabilities together with the contingent liability of members, if any, exceeds the amount fixed by subsection (1a) or (1b), as the case may be, for the paid up capital and surplus of joint stock insurance companies for the respective classes of insurance mentioned therein. Idem

(1d) On the report of the Superintendent, the Lieutenant Governor in Council may by order exempt an insurer from the minimum capital requirements set out in subsection (1a), (1b) or (1c), as the case may be, if the insurer is offering its services only within Ontario or if the insurer is offering a specialized or limited service that in the opinion of the Lieutenant Governor in Council does not require the support of higher capital requirements. Idem

(1e) An exemption under subsection (1d) may be made subject to such conditions as the Lieutenant Governor in Council may impose. Idem

5. The said Act is further amended by adding thereto the following section:

Additional requirements

39a.—(1) Subject to subsection (2), every insurer licensed under this Act,

- (a) shall maintain such ratio of gross written premiums to paid up capital and surplus and of net written premiums to paid up capital and surplus as may be prescribed by the regulations;
- (b) shall submit with the annual statement required by subsection 81 (1) an opinion by an actuary as to the adequacy of provisions made for unearned premiums, unpaid claims and claims adjustment expenses as of the end of the year covered by the annual statement;
- (c) shall not permit the amounts due,
 - (i) from its agents to exceed such percentage of its paid up capital and surplus as may be prescribed by the regulations, and
 - (ii) from its subsidiaries and affiliates, other than those that are insurers, to exceed such amount as may be prescribed by the regulations;
- (d) shall maintain assets, exclusive of any investments of the insurer that are not authorized by this Act or that were not authorized by law at the time of acquisition in an amount that bears not less than a reasonable relationship to the outstanding liabilities of the insurer, all in accordance with such calculation as may be prescribed by the regulations.

Exceptions

(2) This section does not apply to a mutual insurance corporation that is a member of the Fire Mutuals Guarantee Fund or to a life insurance company.

Determination of percentages

(3) In lieu of prescribing a percentage or an amount for the purposes of clause (1) (c), the regulations may provide for methods of determining the percentage or amount, or both, and where such a method is prescribed, the percentage or amount, or both, as the case may be, shall be determined in accordance with the appropriate method.

Transition

(4) Until the day five years after the day this section comes into force, the Superintendent,

- (a) may accept an opinion under clause (1) (b) from a person other than an actuary, if the person has comparable experience and training and is approved by the Superintendent; and
- (b) may exempt any insurer from any requirement or requirements of subsection (1) or the regulations passed in relation thereto for a period not exceeding one year and such an exemption,
 - (i) may be subject to such conditions as the Superintendent may impose, and
 - (ii) may be made retroactive to such date as the Superintendent may specify.

6.—(1) Subsection 40 (1) of the said Act is repealed and the following substituted therefor:

(1) With respect to an insurer incorporated or organized under the laws of Ontario, where the Superintendent is of the opinion that,

Report to
Minister

- (a) the assets of the insurer are not sufficient to justify its continuance in business or to provide for its obligations;
- (b) the insurer is persistently failing to comply with section 39a; or
- (c) the insurer is failing to comply with section 28,

the Superintendent shall so report to the Minister.

(2) Clause 40 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) prescribe a time within which the insurer shall correct any failure or deficiency set out in the report of the Superintendent under subsection (1).

(3) Subsection 40 (3) of the said Act is amended by striking out “fails to make good any deficiency of assets” in the first and second lines and inserting in lieu thereof “does not correct any failure or deficiency”.

(4) Subsection 40 (4) of the said Act is repealed and the following substituted therefor:

Appointment
of
appraisers,
etc.

(4) For the purpose of this section, the Minister may appoint such persons as the Minister considers necessary to appraise the assets and liabilities of the insurer and to determine the adequacy of its reserves and to report upon its condition.

7. The said Act is further amended by adding thereto the following section:

Authority of
Minister

97a. The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with a compensation association related to the conduct of a plan to compensate policyholders of insolvent insurers.

8.—(1) Section 98 of the said Act is amended by adding thereto the following clauses:

- (aa) prescribing forms and providing for their use;
- (ab) designating one or more bodies corporate or associations as compensation associations and designating any such body corporate or association as a compensation association for one or more classes of insurance;
- (ac) designating classes of insurance for the purposes of clause 24a (1) (l);
- (ad) designating insurers for the purposes of subsection 24a (3);
- (ae) prescribing ratios, percentages, amounts and calculations for the purposes of subsection 39a (1) and any such regulation may prescribe different ratios, percentages, amounts and calculations for one or more classes of insurance and for insurers whose business is limited to that of reinsurance;
- (af) prescribing a maximum proportion of risks that may be reinsured with insurers that are not licensed under this Act and such proportion may vary for different classes of insurance.

(2) The said section 98 is further amended by adding thereto the following subsection:

Effective
date of
regulations

(2) A regulation made under clause (ae) does not come into force until the day thirty days after it is filed with the Registrar of Regulations or such later day as may be set out in the regulation.

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

10. The short title of this Act is the *Insurance Amendment Act, 1986*. Short title

Bill 109

An Act to amend the Health Disciplines Act

The Hon. M. Elston
Minister of Health



1st Reading February 12th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill amends Part IV (Nursing) of the *Health Disciplines Act*.

SECTION 1. Section 73 of the Act authorizes the making of regulations. The new clause will authorize the making of regulations requiring and governing records of nursing services provided by members of the College of Nurses of Ontario.

SECTION 2. Section 82 of the Act relates to the Discipline Committee. The section is re-enacted to increase the composition of the Committee from ten members of the Council, including two persons appointed to the Council by the Lieutenant Governor in Council. The Committee is increased to twenty-four members who are intended to operate in panels of five. The Committee will be composed of twelve members of the College and twelve members of the Council of whom four are persons appointed to the Council by the Lieutenant Governor in Council.

SECTION 3. New section 84a of the Act provides for investigations of members for professional misconduct or incompetence. Investigators will be appointed by the Director with the approval of the Executive Committee. The section is similar to section 64 in Part III (Medicine).

SECTION 4. New section 86a of the Act requires members of the College to preserve secrecy with respect to matters that come to their knowledge in the course of their work. The section also prevents members being required to give testimony or provide records in any proceeding other than a proceeding under the Act. The section is similar to section 65 in Part III (Medicine).

SECTION 5. Section 88 of the Act is the penalty section of Part IV. New subsection 88 (3) provides a penalty for obstructing an investigator who is acting under new section 84a set out in this Bill. The subsection is similar to subsection 67 (3) in Part III (Medicine).

Bill 109**1986****An Act to amend the Health Disciplines Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. **Section 73 of the *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:**

(ma) requiring members to establish and maintain records of nursing services provided by them, prescribing the information that must be entered by members in nursing records maintained by them, prescribing classes of records of nursing services, prescribing periods of time for or circumstances in which members must retain specified classes of nursing records, specifying when and to whom members must deliver records of nursing services and governing custody of and access to specified classes of nursing records maintained by members.

2.—(1) Section 82 of the said Act is repealed and the following substituted therefor:

82.—(1) The Discipline Committee shall be composed of, Discipline Committee

- (a) twelve persons who are members of the College; and
- (b) twelve persons who are members of the Council, of whom four shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Chairman
of panel

(4) Every panel of the Discipline Committee shall be chaired either by the chairman of the Discipline Committee or by a member of the Discipline Committee designated by the chairman.

Disability
of appointed
member

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

Quorum

(6) Three members of a panel assigned under subsection (3), of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote, the chairman shall have a second or casting vote.

Reference
by Council
or Executive
Committee

(7) Notwithstanding section 81, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member.

Transitional

(2) Where a proceeding was commenced before the Discipline Committee before the coming into force of subsection (1), section 82 of the said Act as it existed immediately before the coming into force of subsection (1), continues to apply in respect of the proceeding and, for the purpose, subsection (1) shall be deemed not to have come into force.

3. The said Act is amended by adding thereto the following section:

Investigation
of members

84a.—(1) Where the Director believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Director may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Director.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of proof of his or her appointment, enter at any reasonable time the premises where the member is providing or has provided nursing services and examine books, records, documents and things relevant to the subject-

matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from the person or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Obstruction
of
investigator

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon for assistance, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Search
warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissibility
of copies

(7) The Director shall report the results of the investigation to the Council or the Executive Committee or to such other committee as the Director considers appropriate.

Report
of the
Director

4. The said Act is further amended by adding thereto the following section:

Matters
confidential

86a.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 84a, and any member of the Council or a committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 84a and shall not communicate any such matters to any other person except,

- (a) in connection with,
 - (i) the administration of this Act and the regulations under this Act,
 - (ii) the administration of any Part of this Act and the regulations and by-laws under any Part of this Act, or
 - (iii) any proceedings under this Act or any Part of this Act or the regulations under this Act or any Part of this Act;
- (b) as may be required for the enforcement of the *Health Insurance Act*;
- (c) to his or her counsel; or
- (d) with the consent of the person to whom the information relates.

R.S.O. 1980,
c. 197

Evidence
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any book, record, document or thing in any proceeding with regard to information the person has obtained in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Act or any Part of this Act or any regulation or by-law under this Act or any Part of this Act.

5. Section 88 of the said Act is amended by adding thereto the following subsection:

Idem

(3) Every person who obstructs a person appointed to make an investigation under section 84a in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Health Disciplines Amendment Act, 1986*. Short title

Bill 110

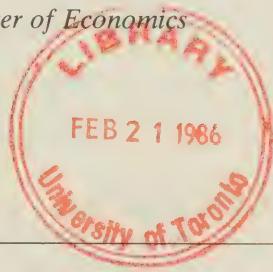
1ST SESSION, 33RD LEGISLATURE, ONTARIO

35 ELIZABETH II, 1986

Bill 110*(Chapter 15
Statutes of Ontario, 1986)*

**An Act for granting to Her Majesty
certain sums of money for the Public Service
for the fiscal year ending the 31st day of March, 1986**

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics



| | |
|---------------------|---------------------|
| <i>1st Reading</i> | February 12th, 1986 |
| <i>2nd Reading</i> | February 12th, 1986 |
| <i>3rd Reading</i> | February 12th, 1986 |
| <i>Royal Assent</i> | February 12th, 1986 |

Bill 110**1986**

**An Act for granting to Her Majesty
certain sums of money for the Public Service
for the fiscal year ending the 31st day of March, 1986**

MOST GRACIOUS SOVEREIGN:

Whereas it appears by messages from the Honourable Lincoln Alexander, Lieutenant Governor of the Province of Ontario, and from the estimates and supplementary estimates accompanying the same, that the sums mentioned in the Schedule to this Act are required to defray certain charges and expenses of the public service of this Province, not otherwise provided for, for the fiscal year ending the 31st day of March, 1986; may it therefore please Your Majesty that it be enacted and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1.—(1) There may be paid out of the Consolidated Revenue Fund a sum not exceeding in the whole \$18,442,124,000 to be applied towards defraying the several charges and expenses of the public service, not otherwise provided for, from the 1st day of April, 1985, to the 31st day of March, 1986, as set forth in the Schedule to this Act, and, subject to subsection (2), such sum shall be paid and applied only in accordance with the votes and items of the estimates and supplementary estimates upon which the Schedule is based.

\$18,442,124,000
granted for
fiscal year
1985-86

(2) Where, in the fiscal year ending the 31st day of March, 1986, powers and duties are assigned and transferred from one minister of the Crown to another minister of the Crown, the appropriate sums in the votes and items of the estimates and supplementary estimates upon which the Schedule is based that are approved to defray the charges and expenses of the public service in the exercise and performance of such powers and duties, may be assigned and transferred from time to time as required by certificate of the Management Board of Cabinet to the ministry administered by the minister to whom the powers and duties are so assigned and transferred.

Exception

Accounting
for
expenditure

2. The due application of all moneys expended under this Act shall be accounted for to Her Majesty.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Supply Act, 1986*.

SCHEDELE

| | ESTIMATES | SUPPLEMENTARY ESTIMATES | TOTAL |
|---|-----------------------|----------------------------|-----------------------|
| | \$ | \$ | \$ |
| Agriculture and Food..... | 260,470,600 | 55,314,600 | 315,785,200 |
| Attorney General..... | 210,346,000 | | 210,346,000 |
| Cabinet Office..... | 3,506,300 | | 3,506,300 |
| Citizenship and Culture..... | 148,018,600 | | 148,018,600 |
| Colleges and Universities..... | 1,583,255,700 | 20,544,400 | 1,603,800,100 |
| Community and Social Services | 2,040,221,600 | 67,160,400 | 2,107,382,000 |
| Consumer and Commercial Relations | 76,566,400 | | 76,566,400 |
| Correctional Services..... | 201,195,600 | 1,105,200 | 202,300,800 |
| Education | 1,633,904,700 | 108,000,000 | 1,741,904,700 |
| Energy | 64,026,600 | 306,067,600 | 370,094,200 |
| Environment | 292,196,600 | 350,000 | 292,546,600 |
| Government Services | 314,118,000 | 8,234,400 | 322,352,400 |
| Health | 6,673,444,200 | 72,164,200 | 6,745,608,400 |
| Housing..... | | 2,725,300 | 2,725,300 |
| Industry and Trade | 63,677,600 | | 63,677,600 |
| Intergovernmental Affairs | 3,870,100 | | 3,870,100 |
| Justice Policy | 1,024,500 | | 1,024,500 |
| Labour | 53,541,500 | 1,613,000 | 55,154,500 |
| Management Board | 190,447,500 | | 190,447,500 |
| Municipal Affairs and Housing | 657,769,900 | | 657,769,900 |
| Municipal Affairs | | 26,479,900 | 26,479,900 |
| Natural Resources | 323,994,900 | 13,733,900 | 337,728,800 |
| Northern Affairs | 130,771,900 | | 130,771,900 |
| Northern Development and Mines | | 3,000,000 | 3,000,000 |
| Office of the Assembly..... | 44,600,600 | 7,390,100 | 51,990,700 |
| Office of the Chief Election Officer | 287,000 | 75,300 | 362,300 |
| Office of the Lieutenant Governor | 305,300 | | 305,300 |
| Office of the Ombudsman..... | 4,552,000 | | 4,552,000 |
| Office of the Premier | 1,905,800 | | 1,905,800 |
| Office of the Provincial Auditor | 3,672,100 | 146,000 | 3,818,100 |
| Office Responsible for Women's Issues..... | 5,400,000 | 1,499,500 | 6,899,500 |
| Resources Development Policy Revenue | 4,698,600 | | 4,698,600 |
| Skills Development | 439,039,000 | 5,000,000 | 444,039,000 |
| Social Development Policy | 276,342,500 | 65,300,000 | 341,642,500 |
| Solicitor General | 2,170,100 | | 2,170,100 |
| Tourism and Recreation | 239,788,600 | | 239,788,600 |
| Transportation and Communications..... | 109,518,600 | | 109,518,600 |
| Treasury and Economics..... | 1,068,138,600 | 109,529,600 | 1,177,668,200 |
| | 439,903,000 | | 439,903,000 |
| TOTAL | 17,566,690,600 | 875,433,400 | 18,442,124,000 |

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